

APPELLATE COURT NO. 71595

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS
AT AUSTIN

RICK ALLAN RHOADES,

Appellant

VS.

THE STATE OF TEXAS,

Appellee.

APPEAL FROM 179TH DISTRICT COURT OF HARRIS COUNTY,
TEXAS

Judge J. Michael Wilkinson Presiding

STATEMENT OF FACTS

VOLUME XXVII OF 40 VOLUMES

Marlene Swope
Official Court Reporter
301 San Jacinto
Houston, Texas 77002

FILED IN
COURT OF CRIMINAL APPEALS

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Thomas Lowe, Clerk

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1 CAUSE NO. 612408
2 STATE OF TEXAS IN THE 179TH DISTRICT COURT
3 VS. OF
4 RICK ALLAN RHOADES HARRIS COUNTY, T E X A S
5

6 A P P E A R A N C E S:

7 For the State: Ms. Carol Davies
8 Ms. Claire Connors
9 Assistant District Attorneys
Harris County, Texas

10 For the Defendant: Mr. James Stafford
11 Ms. Deborah Kaiser
Attorneys at Law
Houston, Texas
12

13 BE IT REMEMBERED that upon this the
14 28th day of September A.D. 1992, the above
15 entitled and numbered cause came on for trial
16 before the Honorable J. Michael Wilkinson, Judge
17 of the 179th District Court of Harris County,
18 Texas; and the State appearing by counsel and
19 the Defendant appearing in person and by
20 counsel, the following proceedings were had,
21 viz:
22
23
24
25

1 (Not before the jury).

2 MR. STAFFORD: For purpose of the
3 record, Your Honor, before the jury is sworn in
4 to hear the testimony and evidence in this case,
5 I have previously filed an additional motion to
6 prohibit the impaneling of the jury, requesting
7 that this selected group of citizens be
8 dismissed and another array of jurors be called
9 over for the purpose of jury selection. As
10 stated previously, Your Honor, on the record,
11 that there were a couple of prospective jurors
12 who we believe the court erroneously failed to
13 grant our Batson motion. I think the motion in
14 writing speaks for itself. I would ask the
15 court to grant the motion and give us the relief
16 that we have requested.

17 THE COURT: That motion is denied.

18 MR. STAFFORD: Also, Your Honor, I
19 have previously filed a motion regarding the
20 potential outbursts.

21 THE COURT: Tell me which motion it
22 is.

23 MR. STAFFORD: It would be the motion
24 regarding admonishing the family. Just for the
25 purposes of the record, I guess it's a form of a

1 motion in limine. I think, as far as the
2 defense team is concerned, our emotions and our
3 hearts definitely go out to the Allen family.
4 We understand their grief. However, under the
5 Constitution of the State of Texas and the
6 United States, I am bound to assure that my
7 client gets a fair trial.

8 THE COURT: All right, I understand
9 there are a number of family, friends, observers
10 on both sides in this case in the courtroom. I
11 don't intend to deny access to anybody in the
12 courtroom unless there is going to be some kind
13 of disruption. We won't tolerate any kind of
14 disruptions. If there are such, you will be put
15 outside.

16 MS. DAVIES: I would like for the
17 court to know that I have tried to speak
18 individually and certainly as a group with all
19 the Allen friends and family who I know who are
20 here today. And I know they are well aware
21 that they must conduct themselves with restraint
22 in the courtroom, and I know that that is their
23 intention.

24 THE COURT: This is a very difficult
25 room to hear in. Our acoustics are terrible.

1 We have outside hallway noises, we have noise
2 from the holdover in the back. We have elevator
3 noise. We have unexplained noise we haven't
4 been able to take care of in the last four years
5 coming out of our speakers. It's very difficult
6 to hear. People are not going to be able to
7 come in and out of the courtroom except on
8 breaks. We will try to break approximately
9 every hour and fifteen minutes or so. This will
10 also include, as far as disruptions are
11 concerned, conversation back and forth among
12 spectators, gestures, winks.

13 What else did you have in this
14 motion?

15 MR. STAFFORD: I hate to belabor the
16 point, but, again, since the jury impression,
17 the jurors' minds are like tape recorders, I
18 would also ask the court to instruct the
19 audience not only on my family's part but on the
20 Allen family's part that if they come to a point
21 where -- just getting up in the middle of the
22 testimony and leaving the courtroom is going to
23 make such a lasting impression on the jury -- I
24 would ask, that if they feel in their heart and
25 good conscience that they can't hear the

1 testimony, that they not come into the
2 courtroom. I ask the court to admonish both
3 sides of the family because once the damage is
4 done it's done.

5 THE COURT: I can't begin to foresee
6 the outbursts you might be talking about. I
7 know it's going to be an emotional trial. We
8 are going to ask the audience to attempt to
9 restrain yourselves. If you think you cannot
10 take it sitting here in the courtroom, you may
11 as well leave now. We are not going to have a
12 lot of people getting up and going out.

13 MR. STAFFORD: My last thing, judge,
14 is the motion in limine that I filed in
15 reference to evidence of family impact, and the
16 motion in limine basically is that the state
17 approach the bench and.

18 THE COURT: I have already instructed
19 Ms. Davies to approach the bench if she thinks
20 she's going to get into anything covered in your
21 motion in limine. We will probably take
22 portions of this up at a later time specifically
23 on punishment.

24 MS. DAVIES: Your Honor, the way that
25 this motion in limine is worded.

1 THE COURT: It's overbroad.

2 MS. DAVIES: It's so broad.

3 Characterizations of present crime? I have
4 people who were at the crime scene. And
5 certainly I will be asking them to describe and
6 explain what happened then and there.

7 THE COURT: I am not going to be
8 asking you to approach the bench on such.

9 MS. DAVIES: Certainly some limited
10 amount of background information about the
11 circumstances and the victims will be
12 appropriate at guilt stage.

13 THE COURT: It will be allowed.

14 Anything else?

15 MS. DAVIES: Your Honor, to return, if
16 I may, to the issue of the family. I know you
17 have made quite clear about coming and going.
18 I have told the family members that if they were
19 in the courtroom and felt that it was best for
20 them to leave that they could quietly do so. If
21 the court is saying anything different now, I
22 want to be sure that my instructions are not
23 going to be contrary to the court's.

24 THE COURT: They are not.

25 MS. DAVIES: Mr. Stafford and I

1 discussed outside just informally this morning
2 what his approach or objections might be
3 surrounding the circumstances of the defendant's
4 arrest. I had inquired of Mr. Stafford, because
5 when I make my opening statement I wanted to
6 know whether -- I assume that I would not be
7 able to mention that the defendant was arrested
8 while burglarizing a building and was in fact in
9 custody when he gave the statement. Mr.
10 Stafford has indicated to me that he would have
11 no objection to that, that he intends to take a,
12 quote, let it all hang out approach. And I just
13 wanted to be sure we were all on the same track
14 and that was the understanding before I get up
15 in front of this jury and refer to that.

16 THE COURT: That is my understanding
17 concerning that matter in a session we had off
18 the record earlier today.

19 MR. STAFFORD: That is my intent, Your
20 Honor. I have no objection to the State going
21 into that at this time. However, Your Honor, I
22 cannot anticipate the State's opening argument.
23 But, again, as far as Officer Butler's testimony
24 in reference to my client stating that the
25 individual who supposedly was responsible for

1 the killing took a hundred and sixty dollars, I
2 am still objecting under the Code of Criminal
3 Procedure 38.22 that this was a direct response
4 to the officer's inquiry into that matter. I
5 think it's subject to the State laying the
6 proper predicate as to an exception of why that
7 oral statement -- he was in custody. It was in
8 direct response to custodial interrogation. And
9 I am contending it's not admissible for any
10 purpose. And I would ask her not to go into
11 that on her opening statement until the court
12 rules on whether or not that part of the
13 statement is in fact admissible.

14 MS. DAVIES: Your Honor, I am sure the
15 court will remember that the written statement
16 also contains admission from the defendant that
17 he took money from the billfold or from the
18 wallet before he left the house. So I do expect
19 to refer to that.

20 THE COURT: That is my recollection also.

21 MR. STAFFORD: I think the statement
22 and the confession is ambiguous. It could be
23 interpreted two ways -- that I left the wallet
24 and the money both there, or possibly I took the
25 money with me or I did not. I think it's an

1 ambiguous statement.

2 THE COURT: Officer Butler we are not
3 going to be hearing from this morning?

4 MS. DAVIES: I don't expect we would
5 get to him until after lunch.

6 THE COURT: I will review his
7 testimony.

8 MR. STAFFORD: Yes, sir, it's right
9 here.

10 THE COURT: I will review it from my
11 notes and let you know after lunch

12 Would you avoid mentioning the exact
13 amount of money? If you want to refer to what
14 is in the so-called confession you may do that.

15 Are you going to wish to make any kind
16 of opening statement?

17 MR. STAFFORD: Yes.

18 THE COURT: Following the State or at
19 a later time?

20 MR. STAFFORD: Following the State.

21 MS. DAVIES: Your Honor, we have a
22 custodian of the records from the Board of
23 Pardons and Paroles in the courtroom in response
24 to my subpoena. And my understanding he has
25 some records with him.

1 THE COURT: Is that somebody
2 appearing--

3 MS. DAVIES: Mr. Green.

4 MR. STAFFORD: Could I get some water
5 real quick?

6 THE COURT: You might want to hear this.

7 It's my understanding there was a
8 subpoena duces tecum issued at the request of
9 the district attorney's office. Mr. Green is
10 general counsel for the Texas Department of
11 Criminal Justice Pardons and Paroles?

12 THE WITNESS: That is correct.

13 THE COURT: You have filed a motion to
14 quash the subpoena or to allow in camera
15 inspection of confidential subpoenaed records.

16 THE WITNESS: Correct.

17 MS. DAVIES: Your Honor, my request is
18 that the court order Mr. Green to leave his file
19 with the court for in camera inspection so this
20 court can determine whether there is anything
21 relevant and, hopefully, turn the file over to
22 the State and even to the defense if there is
23 anything mitigating. I think the fact that
24 this is a capital murder, and the rules of
25 evidence, as we all know, are very broad at the

1 punishment stage, the information in regard to
2 this defendant in the parole board file might
3 very well be relevant. I know that he has
4 spent an extraordinarily long time by present
5 standards in the penitentiary on a five year
6 sentence on his last stay, and I think the key
7 to that may be in the file that Mr. Green has.

8 THE COURT: Mr. Green, since you filed
9 your motion in the alternative, I'm assuming
10 that will be okay, that you leave it with the
11 court. You don't have to remain with the
12 records. I assume these are originals?

13 THE WITNESS: These are copies of the
14 originals. I have retained the originals. I
15 have them in my car, but I didn't bring them in.

16 THE COURT: You have copies. For the
17 State's purposes, are you asking that I actually
18 look at the originals?

19 MS. DAVIES: If Mr. Green can vouch
20 for the fact that these are accurate copies.
21 What I would really like is those files to be
22 turned over to me as subpoenaed, but if the
23 court will examine them in camera.

24 THE COURT: You have two different
25 things here.

1 THE WITNESS: That is case law on my
2 motion, Your Honor.

3 THE COURT: Okay. What else do you
4 have?

5 THE WITNESS: Another file for another
6 court.

7 MR. STAFFORD: I would request that
8 the motion to quash the subpoena be granted.

9 THE COURT: You are urging Mr. Green's
10 motion?

11 MR. STAFFORD: I ask the court to
12 adopt his motion and abide by his wishes. For
13 purposes of the record, I would ask the State
14 subpoena be quashed for the reasons stated in
15 the parole board motion to quash the subpoena.

16 THE COURT: Okay, his motion is in the
17 alternative, and I am going to permit in camera
18 inspection of these subpoenaed records.

19 Anything else we need to take up?

20 MS. DAVIES: I would ask that the
21 court put Mr. Green or custodian on call so that
22 if it would become necessary to have the
23 custodian of the records to return after we have
24 had an opportunity to see what is in there that
25 he would be available to do so.

1 THE COURT: Any objection?

2 THE WITNESS: No problem.

3 THE COURT: Do you have a phone
4 number?

5 THE WITNESS: As long as it's past a
6 week from now. I am leaving for Ohio in the
7 morning. I will be back next Wednesday.

8 THE COURT: I think you need to step
9 over here and talk to Ms. Davies.

10 MS. DAVIES: In your absence, is there
11 someone else to act as custodian of records?

12 THE WITNESS: Mr. Hubbard, who is my
13 assistant, would be available.

14 THE COURT: Is he in Huntsville?

15 THE WITNESS: No, in Austin.

16 MS. DAVIES: My request would be that
17 whoever the custodian of the records at whatever
18 time we need them during the process of this
19 court be available to testify.

20 THE COURT: Any objection?

21 MR. STAFFORD: No.

22 THE COURT: That's fine.

23 Let's arraign the defendant outside
24 the presence of the jury.

25 MR. STAFFORD: Your Honor, for

1 purposes of the record, the State and I have
2 entered into an agreement as far as the rule is
3 concerned as far as family members, that we are
4 relaxing the rule to allow Mr. and Mrs. Rhoades,
5 even though they are going to be witnesses at
6 the time of punishment if we get to punishment,
7 and, likewise, I have agreed to do that with the
8 Allen family, Your Honor.

9 THE COURT: All right. Anything else?

10 MS. DAVIES: Your Honor, I want to be
11 sure that I understand that the defense and I
12 are in agreement that those family members and
13 friends who may only testify at punishment will
14 be excused from the rule during the guilt stage
15 of trial.

16 THE COURT: That is my understanding.

17 MS. DAVIES: When we get to that
18 point, I also was going to ask that Mr. Allen,
19 the father of our two complainants, will testify
20 in the guilt stage; and, hopefully, after his
21 testimony is complete, the rule could be relaxed
22 as to him also.

23 MR. STAFFORD: No objection.

24 THE COURT: Anything else?

25 MS. DAVIES: At this point I would

1 like to ask the court and Mr. Stafford to be
2 sure that when we get to -- I want to have an
3 opportunity to see his witnesses' reports at
4 punishment stage. I want to tell the court
5 this. We all know that a Doctor Dickerson is
6 going to testify because he said so in a
7 pre-trial motion. I anticipate that he will
8 have a lengthy report. The State is entitled to
9 and certainly will need time to look at that
10 report. We are on notice Doctor Dickerson's
11 office is out of town. I would hate for things
12 to be delayed because he comes to court and
13 doesn't have all those documents that we are
14 entitled to look at available.

15 THE COURT: Let's take this up later.

16 MS. DAVIES: I would like to have the
17 court to instruct Mr. Stafford to be sure that
18 those witnesses, that the defense have those
19 things in the courtroom so that we don't delay
20 the trial.

21 THE COURT: Have you filed a subpoena
22 on these people, Mr. Stafford?

23 MR. STAFFORD: No, I haven't. They
24 are going to be here.

25 THE COURT: How many people are we

1 talking about?

2 MR. STAFFORD: Two.

3 THE COURT: Doctor Dickerson and
4 Doctor?

5 MR. STAFFORD: Proler.

6 MS. DAVIES: I guess one option would
7 be the State to subpoena those.

8 THE COURT: Since the State knows who
9 the witnesses are, you can file you--

10 MS. DAVIES: I certainly considered
11 that. I mean, they are not State's witnesses.
12 And, of course, if defense doesn't bring them
13 in, I have no reason to inconvenience either one
14 of those professional men.

15 MR. STAFFORD: Both of these gentlemen
16 are going to testify, and I will supply under
17 the rules of evidence copies of their reports as
18 required by the rules of evidence to the State.

19 THE COURT: If that is not enough, you
20 can file your subpoena.

21 MR. STAFFORD: I will file a motion to
22 quash if they issue a subpoena duces tecum.
23 It's not discoverable under the rules of
24 evidence. Plus they are not ready.

25 MS. DAVIES: I just want to be sure

1 all the documents are available to the State.

2 (Pause).

3 THE COURT: We are back on the record
4 in cause number 612408, State of Texas vs. Rick
5 Allan Rhoades, also known as David Allan
6 Marcas. Defendant is present and represented by
7 counsel Mr. Stafford and Ms. Kaiser. State is
8 represented by Ms. Davies.

9 MS. DAVIES: And Claire Connors.

10 THE COURT: And Claire Connors.

11 As I recall, some weeks ago the State
12 abandoned and dismissed paragraph two of the
13 indictment in cause number 612408.

14 Is that your recollection, Mr.
15 Stafford?

16 MR. STAFFORD: It is.

17 THE COURT: And yours, Ms. Davies?

18 MS. DAVIES: That is correct. We are
19 proceeding on the first paragraph of the
20 indictment. I did not abandon the two
21 enhancement paragraphs. Did abandon the second
22 paragraph.

23 THE COURT: Making a notation on the
24 original indictment -- I know we did this
25 sometime previous. I don't know if it's on the

1 docket sheet at this time or not. If not, there
2 will be an entry at this time.

3 Are you ready to arraign the defendant
4 outside the presence of the jury?

5 MS. DAVIES: Yes, sir.

6 THE COURT: Proceed.

7 MS. DAVIES: In cause number 612408.
8 In the name and by authority of the State of
9 Texas. The duly organized Grand Jury of Harris
10 County, Texas, presents in the District Court of
11 Harris County, Texas, that in Harris County,
12 Texas, Rick Allan Rhoads, also known as David
13 Allen Marcas, hereafter styled the defendant,
14 heretofore on or about April 13, 1991, did then
15 and there unlawfully intentionally and knowingly
16 cause the death of Bradley Dean Allen, hereafter
17 styled the complainant, by stabbing the
18 complainant with a deadly weapon, namely, a
19 knife, and during the same criminal transaction
20 the defendant did there and there unlawfully
21 intentionally and knowingly cause the death of
22 Charles Allen by stabbing Charles Allen with a
23 deadly weapon, namely, a knife, and by striking
24 Charles Allen with a deadly weapon, namely, a
25 bar. Against the piece and dignity of the

1 state. Signed by the foreman of the Grand
2 Jury.

3 THE COURT: To which the defendant
4 pleads guilty or not guilty?

5 THE DEFENDANT: Not guilty.

6 THE COURT: With your permission, I
7 will enter that plea for him at the time he is
8 arraigned in the presence of the jury.

9 Is that all right, Mr. Stafford?

10 MR. STAFFORD: That's fine, judge.

11 THE COURT: Anything else we need to
12 take up before we get the jury?

13 MR. STAFFORD: I will renew all the
14 motions I have heretofore made before the court
15 and reurge them at this time and ask the court
16 to grant relief that was requested at the time
17 they were argued before the court.

18 THE COURT: All motions filed no
19 matter what? Are you going to take up any one
20 individually?

21 MR. STAFFORD: I am just renewing all
22 of them, constitutionality of the statute.

23 THE COURT: All those I previously
24 ruled on, the rulings are still in effect. I
25 haven't changed any rulings.

1 MR. STAFFORD: Failure to inform the
2 jury of the thirty-five-year rule as far as
3 parole is concerned.

4 THE COURT: I understand.
5 Do we have witnesses in the
6 courtroom?

7 MS. DAVIES: May I ask a question? It
8 has been called to my attention. I know the
9 indictment says that this offense occurred on
10 September 13, 1991. I thought that is what I
11 was reading, but it's been called to my
12 attention that I may have said another month.
13 I want to correct that.

14 MR. STAFFORD: I will correct it for
15 her on appeal, judge.

16 THE COURT: Would you like Ms. Swope
17 to take a look and see what you said? I didn't
18 catch it.

19 MS. DAVIES: I don't know that is
20 necessary. As far as the defendant's pleading--

21 THE COURT: There is no question the
22 indictment alleges the offense date is September
23 13, 1991.

24 Was that your understanding, Mr.
25 Rhoades?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Yours, Mr. Stafford?

3 MR. STAFFORD: Yes.

4 THE COURT: Anything else?

5 Witnesses present in the courtroom?

6 MR. STAFFORD: Could they be sworn and
7 rule be invoked?

8 THE COURT: Anyone who is going to
9 testify in this case, please stand up and raise
10 your right hand and be sworn if you are
11 testifying in the case in chief.

12 MS. DAVIES: I believe that is all in
13 the courtroom at the moment.

14 (Two witnesses sworn)

15 THE COURT: The rule has been
16 invoked. You have to remain outside the
17 courtroom while other witnesses are testifying.
18 Don't discuss this case among yourselves or with
19 anybody else except the attorney who has you in
20 charge. We will call you in one at a time.

21 Who is your first witness?

22 MS. DAVIES: My first witness will be
23 David Sanders. I do intend to make an opening
24 statement.

25 THE COURT: Mr. Sanders, why don't you

1 come back here and have a seat in the hallway so
2 we can get to you easily?

3 Paul, get the jury.

4 (Jury enters the courtroom).

5 THE COURT: We thank you for your
6 patience. We know that you have been back there
7 for quite some time. You are going to be called
8 upon from time to time to have to go back to the
9 jury room while we are taking up matters outside
10 your presence. If you would all stand up and
11 raise your right hands and be sworn as jurors.

12 (Jury sworn)

13 THE COURT: Ms. Davies, will you
14 arraign the defendant in the jury's presence,
15 please?

16 MS. DAVIES: In cause number 612408.
17 In the name and by authority of the State of
18 Texas. The duly organized Grand Jury of Harris
19 County, Texas, presents in the District Court of
20 Harris County, Texas, that in Harris County,
21 Texas, Rick Allan Rhoades, also known as David
22 Allan Marcas, hereafter styled the defendant,
23 heretofore on or about September 13, 1991, did
24 then and there unlawfully intentionally and
25 knowingly cause the death of Bradley Dean Allen,

1 hereafter styled the complainant, by stabbing
2 the complainant with a deadly weapon, namely, a
3 knife. And during the same criminal
4 transaction the defendant did then and there
5 unlawfully intentionally and knowingly cause the
6 death of Charles Allen by stabbing Charles Allen
7 with a deadly weapon, namely, a knife, and by
8 striking Charles Allen with a deadly weapon,
9 namely, a bar.

10 Against the peace and dignity of the
11 state. Signed by the foreman of the Grand
12 Jury.

13 THE COURT: To which charge, ladies
14 and gentlemen, the defendant pleads not
15 guilty.

16 Please be seated.

17 It's my understanding Ms. Davies has
18 an opening statement. And, also, there is
19 somebody else at the table you have not been
20 introduced to. Ms. Claire Connors is sitting
21 second chair to Ms. Davies.

22 Proceed, please.

23 MS. DAVIES: We have a chance at this
24 point, each side, to make a very brief opening
25 statement, not a jury argument but just to tell

1 you briefly what we expect the evidence to show,
2 what I expect the evidence to show at this
3 point.

4 You are going to hear testimony from
5 quite a few different people, ordinary citizens,
6 police officers, experts, DNA expert, medical
7 examiner, a wide variety of people are going to
8 come in here in the courtroom to tell you bits
9 and pieces of what they know and what they can
10 contribute to the evidence in this case. So
11 that you have something of a framework so that
12 as you take each of those pieces of the puzzle
13 you will have a better idea of how to put it in
14 place, we have this opportunity to tell you what
15 we expect the evidence to show.

16 As these witnesses come in and
17 testify, you are going to learn that Charles and
18 Bradley Dean Allen were brothers. You are going
19 to learn that they moved onto Keith Street with
20 their parents when they were just little kids.
21 They grew up on Keith Street. The Allens had
22 six children, five sons and a daughter, James,
23 Kevin, Brad, Charles, Donnie, frequently
24 referred to by the family as little Donnie, and
25 the one sister Janis. They moved on to Keith

1 Street in their family home when the kids were
2 young. Lived across the street from a family,
3 the Sanders family. All those kids grew up on
4 that street, they lived there, they played
5 there, they worked there--.

6 MR. STAFFORD: Excuse me, Ms. Davies.
7 Again, this goes to my motion in limine that I
8 previously filed. I don't think it's proper
9 opening argument.

10 THE COURT: Overruled.

11 MS. DAVIES: I expect the evidence
12 will show that Charles and Bradley at 32 and 33
13 years of age died there, died in their brand new
14 home, or Charles' brand new home on Keith
15 Street. As you hear from the witnesses, you
16 will learn as adults -- in fact, the first
17 witness you are going to hear from is David
18 Sanders, one of the Sanders kids who lived
19 across the street from the Allens. Same age as
20 Charles. They grew up together and were the
21 best of friends all through school and high
22 school. When you hear from David, you will
23 learn how they continued to be friends even
24 after they got out of school. David Sanders
25 went to college, came back, began a construction

1 business. And Charles, after high school -- in
2 fact, all the boys, Bradley and Charles were
3 both good friends of David, but David and
4 Charles were special friends, the best of
5 friends. When Charles graduated from high
6 school, he went to work, his first job was with
7 Lubrizol. He worked with them until the time of
8 his death.

9 You will learn that as adults in the
10 year or so just prior to the death, or a few
11 years, both Brad Allen and Charles Allen had
12 gotten married, both had been divorced. Charles
13 had contracted with his friend David Sanders
14 from across the street, a life-long friend, to
15 build a home for him. And that home that was
16 right next door to the Sanders home, was right
17 across the street on Keith Street from the
18 Allen's family home where Charles and Bradley
19 had grown up. The house was near enough
20 completion on the first of September that
21 Charles moved into his new home. It was his
22 house that he had had built, but he was letting
23 his brother Brad live with him for a period of
24 time, so one of those rooms in the house was
25 designated as Brad's room and the other, the

1 master bedroom, was Charles'. The two brothers,
2 early thirties, both divorced, were going to
3 live together for a short period of time, or
4 temporarily.

5 They had been in the house less than
6 two weeks, when on a Thursday night, the 12th of
7 September, there was a football game on TV. You
8 are going to hear from the witnesses that
9 family, friends, neighbors, the brothers, the
10 dad, some of the men had gathered in Charles'
11 new home with him and Brad to watch TV, to watch
12 the football game because Charles had gotten
13 cable. They watched TV, they ate pizza. These
14 were the kind of what we used to call back-door
15 friends, the kind who come in and out because
16 neighbors and family were so near by. They all
17 spent the evening together. David and his
18 brother Daniel were part of the group of men who
19 were in and out of Charles and Bradley Allen's
20 home that evening watching the game. During the
21 course of the evening, all the friends and
22 family, including the Allen brothers' dad, were
23 in and out and left. The last to leave were
24 David and Daniel Sanders.

25 The house included in the back,

1 instead of a garage, a recording studio because
2 not only did Charles Allen have a job, in his
3 adult years he had developed a talent for
4 music. He in fact had recorded a CD. He was
5 very interested in developing that talent; and
6 along with the construction of the house had a
7 very sophisticated recording studio built in the
8 back. There were plans for that weekend grand
9 opening of the recording studio. There were
10 still finishing touches to be done on the house
11 and the recording studio in order to move things
12 in, to get ready for the event, even to close on
13 the house. So, as David Sanders left the house
14 that night, the last to leave, he told his
15 friends goodbye for the night, the plan was for
16 David Sanders to return early the next morning
17 because FHA inspectors were going to come.
18 There were little things that needed to be
19 completed. The evidence will show that that
20 was the last time David Sanders saw his friends
21 Brad and Charles alive. Around eight o'clock
22 the next morning, when David Sanders came to the
23 door to awaken his friends or to come in and
24 complete his work, he got no answer. He waited,
25 finally went back and got his key to the house

1 -- they were the kind of friends who had keys
2 to each other's houses -- and let himself into
3 the back door. When he got in the house, he
4 first sees blood in the kitchen. He was
5 alarmed. Continues on into the house to see
6 first behind, barely see behind a closed door
7 the body of Brad crouched and bleeding, or
8 bloody, at his bedroom door. And then in the
9 master bedroom David finds his friend Charles
10 beaten, bloody, dead. David runs back home to
11 get a gun, to get his brother to call for help.
12 The two brothers come back. They don't know
13 what the situation is. They call for the
14 police. They run down the street to tell Mr.
15 and Mrs. Allen just a few houses down across the
16 street two of their sons lie dead in their new
17 home.

18 I expect the evidence to show that
19 there was a very thorough investigation. You
20 will hear from witnesses who took fingerprints
21 throughout that house and learned, that despite
22 their efforts, there were no fingerprints
23 available suitable for identification.

24 You will hear from a serologist expert
25 who came out to the scene and took samples of

1 blood in various parts of the house. You will
2 hear from him and from the other witnesses who
3 bring these bits of information that as the
4 detectives and all of the crime scene
5 specialists combed through the scene there in
6 the Allen brothers home on Keith Street they
7 learned, with blood spattering pooled
8 everywhere, it appeared clearly to come from the
9 two brothers as they fought and died. There
10 were also some other spots, drops of blood,
11 apart, away from the bodies. When they examined
12 those, they learned that there were some small
13 droplets of blood, dripped blood that were type
14 A. They determined, as they analyzed their
15 findings in the laboratory, that both Brad and
16 Charles had type O blood. So as they
17 investigated, they determined that the other
18 person who was in that house and apparently
19 become cut had type A blood.

20 As the detectives investigated this
21 case, you will hear how they talked to every
22 friend, every neighbor, every construction
23 worker who had been in the house, everyone who
24 worked with, might have been invited to come
25 over. They talked to endless numbers of

1 people. And you will learn from the evidence
2 that it was about a month before a real break
3 came in the case, and that was when, about a
4 month later, a burglar alarm went off at Young
5 Elementary School in Pasadena. And Officer
6 Lopez, who works for the Pasadena Independent
7 School District, answered that alarm, goes to
8 that elementary school and arrests this man,
9 Rick Allan Rhoades, as he is coming out of that
10 school at the door with equipment, VCR, display
11 type equipment. Officer Lopez arrests this
12 defendant, puts him in jail in the Pasadena
13 jail, and the evidence will show that the next
14 day, after he was in custody, this defendant,
15 after first having given a false name to Officer
16 Lopez, made it known to the jailer there at the
17 Pasadena jail that he wanted to talk to
18 somebody, he had information about a murder.
19 As a result, the Pasadena jailer or detectives
20 contacted the Houston Police Department.
21 Detectives who were handling this case,
22 Sergeants Maxey and Kennedy, went over to
23 Pasadena jail to talk to this man. Found out he
24 did in fact know something about the case. They
25 read him his Miranda warnings. He proceeded to

1 tell Sergeants Kennedy and Maxey about how he
2 had killed Charles and Bradley Allen. In the
3 statement he gave to the police he detailed how
4 he had stabbed each of the men, first Charles,
5 beat Charles in the head with a weight bar,
6 stabbed him with a butcher knife, and leaving
7 his body on his bed, and then, when the brother
8 Bradley awakened and came running in to come to
9 the aid of his brother, he described how he then
10 turned on him and stabbed him repeatedly with a
11 butcher knife. Finally losing the knife, the
12 knife flying out of his hand in one of the
13 stabs, one of the thrusts of the knife. That
14 was when Bradley managed to slam the door to his
15 bedroom as he lay crouched, bleeding on the
16 floor, blocked the door so that this defendant
17 couldn't come back. In fact, in the defendant's
18 statement he also describes how, once he lost
19 that knife, he goes back to the kitchen, gets
20 two more knives and returns to the two bedrooms
21 in turn where Charles and Bradley were dying or
22 dead.

23 There are certain aspects of the
24 statement that this defendant gave to the
25 police, things he admitted to them, the weapons

1 that he used, there are certain aspects of that
2 statement I think you will find that the
3 evidence, the physical evidence at the scene is
4 not consistent with. You will learn that, when
5 this defendant talked to the police, he
6 suggested that the way this happened was that he
7 was out taking a walk at 2:30 in the morning and
8 saw Charles Allen come to his door as if he was
9 locking up for the night and they had a
10 something of a staring match and exchanged words
11 there in the street and that this defendant was
12 so alarmed that that prompted him, after Charles
13 Allen, according to the defendant, turned and
14 went back in the house, prompted him to follow,
15 to go into the Allen brothers' home, uninvited,
16 and picks up a weight bar, picks up knives,
17 proceeds to defend himself from whatever his
18 perceived slight or danger was by slaughtering
19 the two men.

20 The evidence that you will hear about,
21 the physical evidence, will indicate that it is
22 far more likely that Charles Allen was first
23 attacked while he was in his bed or beside his
24 bed in those wee morning hours and that Bradley,
25 in fact, was slashed and killed as he came to

1 his brother's defense.

2 This defendant described when he gives
3 the statement how after -- oh, he also, by the
4 way, told the police when he talked to them that
5 he cut his hand during this attack. According
6 to the defendant, he cut his hand trying to
7 disarm Charles Allen. And that explains -- the
8 fact that he cut his hand explains the drop of
9 his blood.

10 Once he had given this statement, a
11 search warrant was obtained and a sample of the
12 defendant's blood was turned over to the
13 laboratory. DNA analysis compared this
14 defendant's blood with the blood sample, the
15 droplets in the kitchen, and confirmed that in
16 fact this defendant was the person who was in
17 that house and who did this dastardly deed.

18 THE COURT: Mr. Stafford.

19 MR. STAFFORD: May it please the
20 court.

21 I want to thank y'all for bearing with
22 us. The trial, I don't know how long it will
23 last, but some of the evidence I think is going
24 to be very emotional, very dramatic. And I
25 expected it to be that way as I talked to you on

1 voir dire.

2 An interesting factor that I would
3 like for y'all to keep in mind, if you can, is
4 that when the detectives made the call out at
5 Keith Street they were really puzzled because
6 there was no forced entry into the house, there
7 was no evidence that any burglary had taken
8 place. In fact, I think the evidence will show,
9 that when the witnesses showed up the next
10 morning, the automobile was in the parking lot,
11 motorcycle was in the driveway, there was
12 substantial amount of items in the house that
13 could have been taken, that could have been
14 easily pawned. So the detectives I think will
15 tell you that they ruled out burglary and theft
16 almost immediately because the house was not in
17 a disarray from the standpoint like something
18 was wanted to be taken. So they assumed that
19 the assailant knew the victims somehow. They
20 didn't know. I think the evidence will even
21 show that they were so frustrated that at the
22 funeral they noticed an individual with a cut on
23 his hand and they even took his blood sample,
24 just looking for leads. This went on for
25 almost a month. No leads. And I think the

1 detectives will tell you, that if they had not
2 got that phone call from the Pasadena PD, to
3 this day, possibly five years from now, they
4 still would not have known how and why this
5 happened, but for a phone call. I think the
6 detectives will tell you that, when they
7 captured Mr. Rhoades, that they informed, or Mr.
8 Rhoades informed them I could have gotten away
9 with that burglary at the school if I had wanted
10 to. I could have gotten away. But I wanted, I
11 was tired of running, I wanted to tell what
12 happened. He told the detectives before he gave
13 his confession I contemplated suicide. I had
14 never been a violent person. I don't understand
15 why I did this. And he proceeds to make a
16 statement. He didn't go in and negotiate some
17 sort of deal. Look, I will tell you something
18 if you give me this. He didn't try to exchange
19 information for a better deal for himself. He
20 came forward and said I want to tell you what
21 happened. I don't understand why I did it
22 myself because I am not a violent person. I
23 think the detectives will tell you and the
24 statement will substantiate that this was not
25 done for money, it was not done for burglary.

1 But for, as Ms. Davies has told you, he was
2 walking down the street. I think in his
3 confession he will tell you, and I think the
4 evidence will show that in this case we are
5 going to let it all hang out. We are not going
6 to hide one thing from you. My client just got
7 out of prison. In the confession he said I just
8 got out of prison, just got off the bus. I was
9 suppose to go to a halfway house, but I went
10 over to my neighborhood where I used to live. I
11 went and tried to find my parents. I couldn't
12 find them. So I drank some beer. I think he
13 even said I was feeling kind of good about being
14 out and I decided to walk down the street and I
15 saw this gentleman standing in the door and he
16 asked me why I was there or something to that
17 effect. Confession will speak for itself. And
18 we had words. And he told me to get my ass on
19 down the road. And I said I have the right to
20 stand in the middle of the road as long as I
21 want to. And I think the confession will tell
22 you that the gentleman went into the house and
23 my client thought he was going in for a gun. He
24 says in the confession I didn't have any
25 weapons. I didn't have anything on me. He runs

1 around to the back of the house. Then he runs
2 into the front of the house. And the door was
3 open. And he walks in, and he sees the
4 gentleman getting a knife. And he has a bar in
5 his hand. And he says I thought about
6 running. I thought about getting out. I
7 thought about leaving, but he had my path
8 blocked and he came toward me with a knife, and
9 I punched him in the nose, or hit him in the
10 nose. I think the medical testimony will
11 support that Mr. Allen was hit in the nose. And
12 I think the evidence will show that there was a
13 massive struggle. And I think the evidence will
14 support through the physical evidence -- and I
15 think as laymen you realize physical evidence
16 has no bias or prejudice. It speaks for itself
17 -- that the scar or the wound on his hand is
18 consistent with someone grabbing a knife as they
19 are coming toward you. There is a cut there.
20 We will show you pictures of it. And the
21 events that lead up to that I agree, according
22 to the prosecutor, are horrible. And he left.
23 But for that phone call, but for that trip to
24 ask the detectives, today you wouldn't be here
25 and we wouldn't know the evidence. I think that

1 is what the evidence will show.

2 Thank you, Your Honor.

3 THE COURT: Ms. Davies, call your
4 first witness, please.

5 MS. DAVIES: The State calls David
6 Sanders.

7 (The following proceedings were had at
8 the bench:)

9 MR. STAFFORD: I renew my motion in
10 limine once again, that a substantial narrative
11 background relationship between the deceased and
12 this witness has no bearing on the subject
13 matter presently in the indictment, going to
14 high school together, being raised on Keith
15 Street and, again, goes right to the thrust --
16 I think it has very little relevancy, has no
17 relevancy at all to whether or not my client
18 committed the acts that they say he committed.
19 And this is only an attempt to humanize the
20 victims and bring on an emotional impact on the
21 jury. I strongly object to going into all of
22 this personal history, as it has no relevancy at
23 all in this case.

24 MS. DAVIES: This witness, he was the
25 main suspect. He is the last person who sees

1 them alive.

2 THE COURT: Overruled.

3 MR. STAFFORD: May I have a running
4 objection on every question?

5 THE COURT: Proceed, please.

6
7 DAVID SANDERS

8 was called as a witness by the State and, having
9 been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. DAVIES:

12 Q. Would you, please, state your name for
13 the record?

14 A. David Lee Sanders.

15 Q. Mr. Sanders, do you mind telling us
16 how old a man you are?

17 A. I'm sorry?

18 Q. How old are you?

19 A. Thirty-three.

20 Q. And are you married?

21 A. No, ma'am.

22 Q. Do you have a family here in Houston?

23 A. Yes, ma'am.

24 Q. Would you describe for the jury the
25 kind of family you come from, the size of your

1 family?

2 MR. STAFFORD: Again, I object as to
3 the relevancy to this indictment. Has no
4 bearing at all.

5 THE COURT: Rephrase your question as
6 far as "kind of."

7 BY MS. DAVIES:

8 Q. Do you have family here in Houston?

9 A. Yes, ma'am, my parents--.

10 MR. STAFFORD: That has been asked and
11 answered, judge.

12 THE COURT: Overruled.

13 BY MS. DAVIES:

14 Q. What family do you have here?

15 A. My parents live here. I have a
16 brother and two sisters. I have a dog named
17 Buddy.

18 Q. How long have you lived in Houston or
19 in this area?

20 A. I was born in this area; and other
21 than attending college and working in another
22 state building houses, all my life I have lived
23 here.

24 Q. Where did you go to college?

25 A. University of Texas.

1 Q. I phrased my question about living in
2 the Houston area and I saw some hesitation. Is
3 your mailing address actually Houston or is it
4 Pasadena?

5 A. It's actually Pasadena, but physically
6 we live in the City of Houston.

7 Q. Can you tell us what street you live on?

8 A. Keith Street.

9 Q. How long have you lived on Keith Street?

10 A. We moved there in 1969, and I lived
11 there until '77, when I went to Austin.

12 Q. Is that when you went to college?

13 A. Yes, ma'am. And then back over the
14 summers, you know, lived there during that
15 time. It's really -- it's considered my home.

16 Q. What address do you live at on Keith
17 Street?

18 A. 618. 618 Keith.

19 Q. Is that the same house you lived in
20 from the time you moved onto that street?

21 A. Yes, ma'am.

22 Q. At the present time, who do you live
23 with at 618 Keith Street?

24 A. My brother Daniel and my sister Dawn.

25 Q. How old were you when you moved onto

1 Keith Street?

2 A. Ten years old.

3 Q. Did you at that point in your life
4 come to know the Allen family?

5 A. --.

6 Q. Did you know them before?

7 A. No. When we were building the house,
8 they were a family of five brothers and a
9 sister, and they were approximately my age, and
10 they wanted to see what the new house was going
11 up on the street, and they would come over there
12 and, you know, do what kids do. That is how I
13 met them. They came over there while it was
14 under construction. We had to run them off a
15 few times. I just got to know them through
16 that.

17 Q. Did you strike up a friendship with
18 any particular ones of the Allen family?

19 A. Yes, ma'am. Charles and I were the
20 same age, in the same class. There were five
21 brothers within seven years of each other.
22 Charles was the second youngest, so all the rest
23 of the brothers were within a year of each
24 other. It was a real close family.

25 Q. Did you get to know Bradley Dean also?

1 A. Oh, yes. It's kind of like if--

2 MR. STAFFORD: Has been asked and
3 answered. I object to the pre-narrative
4 response to the question.

5 THE COURT: Sustained.

6 BY MS. DAVIES:

7 Q. Did you see a lot, during your
8 childhood years did you see a lot of Brad and
9 Charles?

10 A. Practically every day.

11 Q. Were you friendly with the rest of the
12 brothers and sisters also?

13 A. Yes, ma'am.

14 Q. And with Mr. and Mrs. Allen?

15 A. Yes, ma'am.

16 Q. Would they be in your home?

17 A. As much as I could invite them, yes.

18 Q. What about, did you go to their house?

19 A. I spent more time over at their
20 house. It was a lot more fun over there.

21 Q. Through the years, did you continue to
22 be friends with Charles and Brad, the Allen
23 brothers?

24 A. Yes, ma'am. It's life-long friends,
25 the whole family, since I was ten.

1 Q. Did you and Charles go to the same
2 school?

3 A. Yes, ma'am, we went to intermediate
4 together and we went to South Houston High
5 School together.

6 Q. During the high school years, were
7 there any particular activities that you and
8 Charles and Brad shared?

9 MR. STAFFORD: Same objection as to
10 relevancy to this indictment.

11 THE COURT: Sustained.

12 BY MS. DAVIES:

13 Q. Did your relationship with Charles
14 continue to be close during high school?

15 A. Yes, ma'am. It just got closer. We
16 had a lot of the same classes and ended up in
17 the same--.

18 MR. STAFFORD: Asked and answered,
19 Judge. I object to the pre-narrative.

20 THE COURT: Sustained.

21 BY MS. DAVIES:

22 Q. How often would you see them during
23 those teenage years?

24 A. Until I went to college, every day.

25 Q. During all those years, did they all

1 also live on Keith Street?

2 A. Yes, ma'am.

3 Q. You said you went off to college.

4 When you graduated from high school, do you know
5 whether Charles went off to college?

6 A. Yes, ma'am, I do know he didn't.

7 Q. He did not?

8 A. No, ma'am, he did not.

9 Q. Do you know what Charles did when you
10 went off to college? Or let me reword it. Did
11 Charles go to school or did he take a job after
12 high school?

13 A. After high school, he waited to get
14 employed by Lubrizol Corporation. After eight,
15 ten months, he was out of high school, and he
16 worked there continuously until September 13th.

17 Q. What about Brad, did you stay in touch
18 with him, too, after you graduated from high
19 school?

20 A. Yes, ma'am. He got married and, you
21 know, moved out of the house with his wife, and
22 they lived in the same general area in
23 Pasadena. We all stayed in contact.

24 Q. Did you know Brad's wife?

25 A. Yes, ma'am.

1 Q. Go to the wedding?

2 A. I think I went to the reception. I am
3 not sure -- I am hazy on the wedding.

4 Q. Okay. Was Brad, did he stay married?

5 A. No, ma'am. He divorced in the last
6 two years, I believe.

7 Q. Do you know whether Charles ever got
8 married?

9 A. Yes, ma'am, he got married in '87, I
10 believe. '87, '88.

11 Q. Were you at Charles' wedding?

12 A. Yes, ma'am, I was.

13 Q. What was the bride's name?

14 A. Marlo McBroom was her maiden name.

15 Q. Where was that wedding?

16 A. In Illinois.

17 Q. Were you there?

18 Q. Yes, ma'am.

19 Q. In the wedding?

20 A. Yes, ma'am, I was best man.

21 Q. When he died, was Charles still
22 married?

23 A. No, ma'am.

24 Q. Was there a period of time, while he
25 was married, did Charles and Marlo live here in

1 Houston?

2 A. Yes, ma'am, they did.

3 Q. Did you stay in touch with them during
4 that period of time?

5 A. By the time they were married, I moved
6 back also to Houston from North Carolina where I
7 was building homes, and I started a home
8 building company myself, and I was in touch with
9 them virtually every day.

10 Q. During that period of time, while they
11 were married, were they still living on Keith Street?

12 A. No, ma'am, they moved over to
13 Arlington Heights, which is a subdivision a mile
14 from Keith Street.

15 Q. Did you still see them often?

16 A. Yes, ma'am.

17 Q. What is the name of your home building
18 business?

19 A. Master Home Builders.

20 Q. What about, I believe you said at some
21 point Charles and Marlo became divorced also?

22 A. Yes, ma'am. About approximately a
23 year after they were married, her little sister
24 died tragically in an auto accident, and Marlo
25 kind of blamed herself.

1 MR. STAFFORD: Your Honor, I object
2 again to the relevancy of any of this.

3 THE COURT: Sustained.

4 BY MS. DAVIES:

5 Q. Did they get divorced?

6 MR. STAFFORD: Object to that as to
7 relevancy.

8 THE COURT: I believe it has been
9 alluded to several times. Overruled.

10 A. Eventually they did get divorced, yes,
11 ma'am.

12 Q. At some point, did Charles make
13 arrangements with you to build a house for him?

14 A. Originally I was building it for he
15 and Marlo.

16 Q. And where was that house to be built?

17 A. At 618 Keith where I live we had a --
18 it is a five acre plat. We live on two and a
19 half acres, and there is a two and a half acre
20 pasture which I developed and built right next
21 door to my house. That is where I built his
22 house.

23 Q. You said originally it was to be for
24 Charles and Marlo. Who did the plans for the
25 house?

1 A. Charles and Marlo picked them out, and
2 we got them from Adams Design.

3 Q. Apparently they did get divorced. Did
4 that cancel the house building plans?

5 A. No, ma'am, it was during the
6 construction she moved back to Illinois, and it
7 became just his house alone. She was taken off
8 the mortgage. This is when their divorce came
9 through. And the mortgage company proceeded
10 with Charles Allen singularly.

11 Q. Would that be on the application for
12 the mortgage?

13 A. Yes, ma'am.

14 Q. At that point, were you working
15 closely with Charles on construction of the
16 house?

17 A. Close. He was over there every day.
18 He was over there more than I was.

19 Q. When you say over there?

20 A. At the residence I was building for
21 him next door to my house.

22 Q. And the house you were building for
23 Charles, what was that street address?

24 A. 624 Keith.

25 Q. Was Charles going to live there alone

1 at that point while you were building?

2 A. He vacillated. At that point he was
3 going to live alone and then later he decided
4 that Brad was going to live with him.

5 Q. Was there any -- you mentioned that
6 Charles worked for Lubrizol. What type of work
7 was he doing?

8 A. He was a chemical operator on shift
9 work.

10 Q. And what kind of work did Brad do?

11 A. Brad was a freelance artist production
12 type. He put ads and displays together for
13 magazines, periodicals, anybody who advertises,
14 basically.

15 Q. Other than his job with Lubrizol, did
16 Charles have any other special endeavors that he
17 was working on?

18 A. Yes, ma'am. During that eight to ten
19 months after high school I think he picked up a
20 guitar at that time and started, just got into
21 it. He got into his music real heavy, and that
22 was his dream to compose, write, record, produce
23 records.

24 Q. You said right after high school.
25 During the high school years, was he involved in

1 music at that point?

2 MR. STAFFORD: Again, I object.

3 THE COURT: Sustained.

4 BY MS. DAVIES:

5 Q. Was there anything related to Charles'
6 interest in music, anything special about the
7 house that you were building for him in that
8 regard?

9 A. Yes, ma'am. In lieu of a garage, a
10 detached garage, Charles researched and designed
11 a recording studio. It was a state of the art
12 digital recording studio. There is only one
13 other in Houston.

14 MR. STAFFORD: Again, that is not
15 being responsive to the question. I object to
16 the pre-narrative response.

17 THE COURT: Once she asks a question,
18 just answer what she asks. If she wants to
19 follow up with another question, she may do so.

20 Proceed, please.

21 BY MS. DAVIES:

22 Q. Did Charles actually design the studio
23 himself?

24 MR. STAFFORD: Your Honor, I would ask
25 the court to admonish the prosecutor to keep

1 from going into these irrelevant questions that
2 have no bearing. I renew my motion.

3 THE COURT: As to that question, it's
4 overruled.

5 THE WITNESS: I'm sorry, what was the
6 question?

7 BY MS. DAVIES:

8 Q. Did Charles design the recording
9 studio himself?

10 A. Yes, ma'am.

11 Q. Do you recall when it was that Charles
12 actually was able to move into the house you
13 were building at 624 Keith Street?

14 A. September 1st he moved in, or possibly
15 the end of August. Either the last day of
16 August or the first day of September.

17 Q. Had you actually closed, gone to the
18 closing and had the papers signed?

19 A. No, ma'am. He just moved in. His
20 rent was, I mean, his lease was up at his
21 previous residence in Arlington Heights, and we
22 weren't closed, and I was going to have a rent
23 agreement with him until we did close.

24 Q. Was there any work remaining to be
25 done on the house or the recording studio?

1 A. Yes, ma'am. The house, it was
2 beneficial to Mr. Allen to have an FHA loan, and
3 I was not an FHA approved builder at the time,
4 and going through the process, we finished the
5 house but the FHA inspector hadn't been out to
6 give his final approval. And there was some
7 painting, some caulking, some miscellaneous
8 cosmetic items that needed to be done in the
9 house. And in the studio, the wood floors were
10 in the process of drying.

11 Q. What part of the house was that in?

12 A. In the studio. It's a detached
13 building behind the house. It's a recording
14 studio.

15 Q. So, those floors had been stained
16 when?

17 A. Two days before they had been
18 stained. The day before, which would be the
19 twelfth, they had been sealed and were in the
20 process of drying at that time.

21 Q. Was there any particular reason -- was
22 there any concern about getting those floors
23 dried and the recording studio finished?

24 A. Yes, ma'am. We had a studio opening
25 the fourteenth, and the floors were not quite

1 dry, and they were -- we had equipment to move
2 in that next day, which would have been the
3 thirteenth. We had a big workday planned to get
4 all the equipment in there before the opening.
5 And Charles was concerned that it wasn't going
6 to be dry, so we left the doors open and the AC
7 running to facilitate the drying process.

8 Q. This was in the recording studio?

9 A. Yes, ma'am.

10 Q. Was that detached from the main house
11 or was it actually connected to the main house
12 at 624 Keith?

13 A. No, ma'am, it was a detached building.

14 Q. Let me direct your attention to
15 Thursday, the twelfth of September, a year ago,
16 1991. Do you recall did you see Charles or Brad
17 during the day on that day, on Thursday?

18 A. Yes, ma'am.

19 Q. Did you see Brad?

20 A. Yes, ma'am.

21 Q. When was that? During the day?

22 A. During the day.

23 Q. On Thursday. When?

24 A. In the afternoon, approximately twelve
25 to one.

1 Q. Where was it that you saw Brad?

2 A. At the house. I think he went that
3 afternoon with his girlfriend Kelly Petersen.

4 MR. STAFFORD: The question has been
5 answered. I object.

6 THE COURT: Sustained.

7 BY MS. DAVIES:

8 Q. At the time of his death, did Brad
9 have a special girlfriend?

10 A. Yes, ma'am, he did.

11 Q. Had you met her?

12 A. Yes, ma'am.

13 Q. At their house at 624 Keith?

14 A. Yes.

15 Q. What was her name?

16 A. Kelly Petersen.

17 Q. I think, if I understood you
18 correctly, you saw Brad during the middle of the
19 day on Thursday?

20 A. Yes, ma'am.

21 Q. The twelfth of September?

22 A. I believe so.

23 Q. Did you still have a key to their
24 house?

25 A. Yes, ma'am.

1 Q. Did they have a key to your house?

2 A. I don't believe so. I think me and my
3 brother had the only keys to the house.

4 Q. During that day, again, we are talking
5 about Thursday, the twelfth, did you see Charles
6 during the day?

7 A. Yes, ma'am.

8 Q. What were the circumstances that you
9 saw him?

10 A. We went to lunch during the day. He
11 was--.

12 MR. STAFFORD: That has been answered,
13 Judge.

14 THE COURT: Sustained.

15 BY MS. DAVIES:

16 Q. What hours did Charles ordinarily
17 work, if you know?

18 A. He worked shift work. He worked
19 twelve to twelve, and it was either nights or
20 days. Or maybe six to six.

21 Q. So he would work twelve hour shifts
22 day or night?

23 A. Yes, ma'am.

24 Q. Would that vary from time to time?

25 A. Yes, ma'am. It was a set schedule,

1 but it varied during the month. It wasn't seven
2 on, seven off, then switched to something else,
3 it was varying schedule.

4 Q. Given that schedule, would there be
5 times that Charles had days off at a time?

6 A. Yes, ma'am. He physically worked less
7 than six months, which gave him ample
8 opportunity to practice his music.

9 Q. Six months out of the year?

10 A. Yes, ma'am.

11 Q. Because of the shift work schedule?

12 A. Yes, ma'am.

13 Q. Worked longer hours than some of us do
14 during the day but?

15 A. It's compensated by the off time.

16 Q. You said you saw Charles during the
17 day, and Brad. What about in the evening of
18 Thursday, September twelfth, 1991, did you see
19 the two men, or either of them?

20 A. Yes, ma'am. Charles had gone skiing
21 with his brother Kevin to catch some rays for
22 his studio opening.

23 MR. STAFFORD: Judge, that is
24 nonresponsive to the question. He either saw
25 him or he didn't.

1 THE COURT: Just respond to the
2 question. Do you understand, sir?

3 THE WITNESS: Yes, sir.

4 BY MS. DAVIES:

5 Q. Did you see Charles come or go from
6 going skiing with his brother?

7 A. Yes, ma'am, I did.

8 MR. STAFFORD: Again, unless they were
9 skiing on the twelfth, I don't know what
10 relevancy skiing would have in this matter.

11 THE COURT: That's my understanding.

12 MS. DAVIES: I think that is exactly
13 what he testified to. They went skiing on the
14 twelfth.

15 MR. STAFFORD: Water skiing?

16 A. Yes, sir.

17 BY MS. DAVIES:

18 Q. What time of day was it did you see
19 him come or go from the water skiing trip?

20 A. He left as soon as we got up -- well,
21 maybe around three. Returned approximately
22 seven o'clock that evening.

23 Q. So, during the evening hours, did you
24 see the brothers, Charles and Allen. Charles
25 and Brad?

1 A. Yes, ma'am, I did.

2 Q. Where was that?

3 A. At their house at 624 Keith.

4 Q. Was there any special occasion that
5 you saw them that evening?

6 A. There was a big football game on that
7 night. University of Houston was playing
8 number one ranked Miami, and we proposed
9 watching it over at Charles' house.

10 Q. Why was that?

11 A. Because he had cable.

12 Q. Who came over to watch the game at the
13 new house?

14 A. Myself and my brother Daniel Sanders,
15 Jamie Allen, Mr. Allen, cousin Zack I believe.

16 Q. Whose cousin?

17 A. That was the Allens, Charles and
18 Brad's cousin who lives across the street on
19 Keith came over with Mr. Allen, their father, to
20 watch the game. And one other friend, Chris
21 Porter.

22 Q. Was it a special party?

23 A. No, ma'am, it was just to watch the
24 game.

25 Q. Did you stay there in the house? Did

1 everybody arrive at the same time and leave at
2 the same time?

3 A. No, ma'am, I think the game had
4 probably begun when Charles returned from his
5 skiing trip, and Brad was there, and actually it
6 was me and my brother were more interested in
7 watching the game than the rest of the family.
8 Mr. Allen came over after half time. That is
9 when he and Zack came over.

10 Q. When you say Mr. Allen, you are
11 talking about?

12 A. Don Allen, the father.

13 Q. Charles and Brad's father?

14 A. Yes, ma'am.

15 Q. Were there any refreshments?

16 A. We probably had some beer. There
17 weren't a lot of big drinkers. Charles didn't
18 drink.

19 Q. Did Charles drink any beer at all?

20 A. No, ma'am.

21 Q. Did he ever drink beer?

22 A. I could take him out and twist his arm
23 if we were going out to a club; but other than
24 that, he doesn't drink at all.

25 Q. Did you notice whether he was drinking

1 that evening?

2 A. Yes, ma'am, I noticed he wasn't.

3 Q. What about Brad, did you notice
4 whether he was drinking?

5 A. I have no recollection of that, to
6 tell you the truth.

7 Q. Did y'all have anything to eat during
8 that evening?

9 A. Yes, ma'am. I don't know that
10 directly, but there was a pizza box there. I
11 went back and forth to my house. That is when I
12 make calls to my subs in the evening.

13 Q. Let me understand you. You were going
14 back and forth during the evening?

15 A. Yes, ma'am. I'd watch some of the
16 game and then go next door to my house and call
17 the subcontractors who I needed the next day.
18 And when I went, during one of these trips when
19 I came back, there was a pizza box there.

20 Q. They didn't leave any pizza for you?

21 A. No, ma'am.

22 Q. The other men that were still there,
23 did they appear to have been eating pizza?

24 A. They all had smiles on their face.

25 Q. Do you know what kind of pizza it was?

1 A. It was Domino's pizza, and I assume it
2 was pepperoni. That is what Charles ordered all
3 the time.

4 Q. Did the rest of the group stay the
5 entire evening until the end of the evening?

6 A. No, ma'am. Brad stayed, and Charles
7 stayed, of course, they were living there. Mr.
8 Allen and Zack I believe were the first to go,
9 and then the others kind of straggled out. It
10 wasn't really much of a game. They got
11 clobbered, the University of Houston got
12 clobbered that day, so there was no need to stay
13 and watch the final mop up, so they just left.
14 And I believe my brother Daniel and I were the
15 last ones to leave.

16 Q. When you and your brother left, do you
17 recall what time that was?

18 A. It was right about eleven o'clock in
19 the evening.

20 Q. We are talking about Thursday night,
21 September 12th, 1991?

22 A. Correct.

23 Q. Were Charles and Brad still up when
24 you left, or had either of them gone to bed?

25 A. No, both of them were still up.

1 Charles was concerned about his studio floor,
2 and he was going in and out, touching it to see
3 how quick it's drying. Coming and giving me
4 reports.

5 Q. Let me understand that. You say
6 coming and giving you reports. During the
7 course of the evening, what did you see Charles
8 do in connection with that floor that had been
9 sealed out in the recording studio?

10 A. Just walk out the back door, walk into
11 the studio, touch the floor and see if it was
12 still sticky, come back in and tell me, "I don't
13 know, Dave," or "I think it will be all right."
14 Just updates.

15 Q. Were there -- was there any special
16 reason that there was concern over when that
17 floor was going to be dry?

18 MR. STAFFORD: I believe that has been
19 asked and answered.

20 THE COURT: I think it has, but I
21 haven't heard his answer yet. You may answer
22 it.

23 A. Yes, ma'am. We had a studio opening
24 Saturday, the 14th.

25 MR. STAFFORD: I object to that.

1 THE COURT: It's repetitious. It's
2 sustained as to repetitious.

3 BY MS. DAVIES:

4 Q. Did you have any plans with Charles in
5 connection with any specific work that needed to
6 be done on the day following the football game,
7 in other words, on Friday, the thirteenth?

8 A. Yes, ma'am. As I stated earlier, the
9 FHA inspector was due to come at nine o'clock
10 the next morning, the thirteenth, Friday.

11 Q. And what was it that you needed to do
12 for that?

13 A. Some painting, caulking, little
14 touch-up stuff. They had been out and
15 structurally seen the house, had approved it,
16 but cosmetically they wanted to make sure that
17 it's painted.

18 Q. Were those things to be done inside
19 the recording studio or inside the main house?

20 A. Inside the main house.

21 Q. During the period of time that first
22 part of September where Charles and Brad had
23 been living next door to you at 624 Keith
24 Street, were you in and out of their house
25 often?

1 A. Daily.

2 Q. Can you tell us, based on your
3 observations from going to their house, did they
4 always lock the doors?

5 A. No, ma'am, they didn't.

6 Q. Based on your experience, would it be
7 unusual for them not to have locked all the doors?

8 A. No, ma'am. Brad I believe was pretty
9 good about locking the doors, where Charles
10 didn't care. It just wasn't top priority. When
11 he left during the day, he would, you know, I
12 would come over and there would be doors open.

13 Q. Had you installed a burglar alarm
14 system in that house?

15 A. Yes, there was a Brinks security
16 system in the house, every door and every
17 window.

18 Q. Based on your comings and goings
19 during that first couple of weeks, had they
20 gotten in the habit of regularly setting that
21 burglar alarm system?

22 A. No, ma'am, they didn't.

23 Q. You said you left on Thursday evening
24 about eleven. Planned to return at what time?

25 A. Seven to 7:30 in the morning.

1 Q. On Friday morning?

2 A. Yes, ma'am. They were going to assist
3 me in the painting.

4 Q. Do you recall about what time it was
5 that you got up on Friday morning, the
6 thirteenth of September, 1991?

7 A. Between 6:30 and seven.

8 Q. Did you go directly next door to the
9 Allen house?

10 A. No, ma'am, I went to Whataburger and
11 got some breakfast and consumed it on the way
12 back and pulled into their place about 7:30
13 ready to finish up our touch-up.

14 Q. Did you park your car in their
15 driveway?

16 A. No, ma'am. I live next door. I
17 parked it at my house.

18 Q. And then what did you do after you
19 parked your car?

20 A. I walked over to their house, and I
21 banged on the back door and waited for them to
22 open it.

23 Q. You say you banged on the back door.
24 Did you go to the front door?

25 A. No, ma'am.

1 Q. Ordinarily, when you would come and go
2 from your friends' house, did you go to the
3 front or the back?

4 A. Back.

5 Q. Did you get an answer when you knocked
6 on that back door?

7 A. No, ma'am. There's three doors at the
8 back of the house. The one that leads to the
9 kitchen is the one I always knock on, but there
10 is a door to Charles' bedroom, the master, that
11 after nobody answered there I went over and
12 banged on that door because I knew they were
13 expecting me. And their cars were there.

14 Q. When you say you banged on that door,
15 are you talking about the door that actually, an
16 exterior door to the master bedroom?

17 A. Yes, ma'am.

18 Q. Did you get any response?

19 A. No, ma'am.

20 Q. Hear anything?

21 A. No, ma'am.

22 Q. Then what did you do?

23 A. I went back to my house and got a key
24 and came back and let myself in the utility room
25 door.

1 Q. What did you see when you walked into
2 the house?

3 A. I had my caulking gun and paint brush
4 with me, and I set it on the kitchen counter
5 top, I saw blood on the floor in the kitchen.

6 Q. What was your first reaction? What
7 did you think when you saw blood on the kitchen
8 floor?

9 A. I thought somebody had stepped on
10 something and walked in there and forgot to
11 clean it up.

12 Q. So what did you do?

13 A. I was heading to admonish them. And
14 then I saw more blood.

15 Q. As you went into the house through the
16 kitchen, were you calling their names? What
17 were you doing?

18 A. No, ma'am, it was pretty evident that
19 something had gone wrong there.

20 Q. At what point did it become evident to
21 you that something had gone wrong? Where were
22 you in the house?

23 A. I had left the kitchen and headed back
24 toward the bedrooms, and there was a large pool
25 of blood underneath Brad's door.

1 Q. Was Brad's door open or closed?

2 A. It was closed. It wasn't -- the
3 keeper -- it wasn't completely closed, but it
4 was -- there was a crack about an inch big in
5 it.

6 Q. You held your fingers up. About an
7 inch crack?

8 A. Yes, ma'am.

9 Q. Did you look inside that crack?

10 A. Yes, ma'am, I did.

11 Q. What did you see?

12 A. I saw Brad.

13 Q. Where was he?

14 A. He was kneeling on the floor with his
15 head on the bed.

16 Q. Was he up against the door?

17 A. Yes, ma'am.

18 Q. Could you open the door?

19 A. No. Looked like he was trying to keep
20 somebody out.

21 Q. Did you try to open the door?

22 A. Yes, ma'am, I did. Briefly.

23 Q. Did you try to talk to Brad?

24 A. No, ma'am.

25 Q. Why not?

1 A. I didn't know if there was still
2 somebody in the house, and I wanted to go check
3 on Charles.

4 Q. Was Brad making any sounds at all?

5 A. No, ma'am.

6 Q. What did you do?

7 A. There is a hallway that leads to the
8 master. I started walking down it.

9 Q. What did you see in the hallway?

10 A. A blood bath. There was blood all
11 over the walls, all over the doors, everywhere.

12 Q. Did that hallway lead to Charles'
13 room?

14 A. Yes, ma'am, it did.

15 Q. Did you go there?

16 A. Yes, ma'am.

17 Q. What did you see when you got to
18 Charles' bedroom?

19 A. I saw a body laying crossways on the
20 bed.

21 Q. Could you tell the jury what it was
22 like?

23 A. It looked like a body. I didn't
24 know. You know, in the back of my mind I think
25 I was hoping it wasn't Charles.

1 Q. Was it easy to recognize Charles?

2 A. No, ma'am, I couldn't tell who it was
3 at first.

4 Q. Why not?

5 A. He had been beaten on the head, and
6 his face had swollen up.

7 Q. Was there any blood in that room?

8 A. Yes, ma'am.

9 Q. Where?

10 A. Underneath his head. It was dripping
11 on the floor. And as soon as you open up the
12 door there was splatter marks there on the wall
13 coming. And there was some on the headboard.

14 Q. You said as soon as you open up the
15 door. Was the door of Charles' bedroom closed?

16 A. No, ma'am, it was open.

17 Q. When you say there were splatter marks
18 there, you are just talking about where it was
19 next to the door?

20 A. Yes, ma'am.

21 Q. Was that your friend Charles on the
22 bed?

23 A. Yes, ma'am, it was.

24 Q. What were you thinking at that point?
25 How did you feel?

1 MR. STAFFORD: I object to relevancy
2 as to that issue.

3 THE COURT: It's overruled.

4 A. My first thoughts were to get the
5 son-of-a-bitch that did it. And I ran back to
6 the house and got a gun. I didn't know if he
7 was still there or not.

8 Q. Was anybody at your house?

9 A. Yes, ma'am, my brother was at my
10 house. He was getting up, getting ready to go
11 to work.

12 Q. Did you talk to him?

13 A. I ran upstairs, grabbed my gun and
14 came downstairs and yelled to him. I forget
15 what I yelled. I alerted him to come over to
16 Charles' house now.

17 Q. This is your brother Daniel?

18 A. Yes, ma'am.

19 Q. Did he come with you when you went
20 back to Charles and Brad's house?

21 A. Somewhere behind me. I didn't look,
22 I just ran over there with the gun.

23 Q. When you were at your home, or at any
24 point prior to this, had you called for the
25 police?

1 A. No, ma'am, not at that time.

2 Q. So what did you do?

3 A. I ran, went back to the house and did
4 a room to room to see if anybody was in there,
5 at which time my brother came in and.

6 Q. Did he have a weapon?

7 A. Yes, ma'am, he had a broomstick. He
8 came over with a broomstick. When he got to
9 the house, there was a butcher block in the
10 kitchen with knives in there. I think he
11 grabbed one of those at that time.

12 Q. So did he accompany you walking
13 through the house?

14 A. Sometime behind me.

15 Q. You said you did a room to room.
16 Describe to the jury what it was that you did.

17 A. I opened closet doors, I looked under
18 things, hoping somebody was still there.

19 Q. Did you actually go into Brad's room?

20 A. No, ma'am.

21 Q. Why not?

22 A. I didn't want to disturb any of the
23 evidence, and the door wouldn't open. He was up
24 against it.

25 Q. Now, did you or your brother touch or

1 move.

2 Let me reword my question. Did you or
3 your brother move anything in the Allen house
4 other than opening and closing closet doors?

5 A. I don't believe so. I can't speak for
6 my brother, but I don't think we did.

7 Q. Did you see your brother move anything
8 in the house?

9 A. Other than picking up that knife.
10 When we were satisfied that nobody else was
11 there, went to Brad's room, and he pushed it
12 open a little bit more. There was no signs of
13 life.

14 Q. Did you use the telephone there in
15 Charles and Brad's house?

16 A. No, ma'am.

17 Q. Did you touch Charles or move anything
18 on the bed?

19 A. No, ma'am.

20 Q. Did you see your brother Daniel do
21 that?

22 A. No, ma'am.

23 Q. So then what did you do next?

24 A. I ran back to the house, called 911.
25 You know, there wasn't any reason to, but I

1 wanted to get the police coming also. And I
2 told them that there had been a double
3 homicide. I think I told them two people had
4 been killed or something. I don't remember what
5 I told them.

6 Q. Mr. Sanders, were you talking and
7 acting as calmly then as you are here in the
8 courtroom?

9 A. No, ma'am.

10 Q. Can you describe for the jury how you
11 were handling yourself when you ran back and
12 called 911?

13 A. Probably pretty hysterical. I don't
14 remember a lot of that time. I know I talked
15 to some knothead lady who was asking me a bunch
16 of stupid questions. I just told her to get
17 some police over there now. I was probably
18 yelling at her.

19 Q. Then what did you do?

20 A. I went across the street, and I had to
21 tell his parents.

22 Q. You went to Mr. and Mrs. Allen's
23 house?

24 A. Yes, ma'am.

25 Q. Tell us what happened.

1 A. They were sitting at their -- I walked
2 in. I didn't know what to say. They were
3 sitting at the table. They were drinking their
4 morning coffee. Mrs. Allen asked what was the
5 matter, what do you want.

6 MR. STAFFORD: I object. My motion
7 in limine.

8 THE COURT: Approach the bench.

9 (The following proceedings were had at
10 the bench:)

11 MR. STAFFORD: Once again, as to the
12 relevancy of the subject matter of the
13 indictment of how the parents, bless their
14 little hearts, responded when they found this
15 out, the only reason this is being introduced is
16 to tug at the emotional strings of this jury,
17 has no other purpose and design by the State
18 other than to pull their emotional strings. It
19 has no relevancy as to whether or not my client
20 committed this crime. It's offered for
21 emotional reasons only. I strongly object as to
22 the relevancy.

23 THE COURT: I am going to allow the
24 State to speak. I also must state for the
25 record at this point we do have a defendant who

1 has entered a plea of not guilty and we have the
2 person on the witness stand at the moment who
3 was evidently the last to see the victims alive
4 and the one to discover the bodies the next day
5 and who is, as I understand it, was a suspect
6 for sometime in this case, so his actions are at
7 least relevant.

8 MR. STAFFORD: What relevance does it
9 have as to how Mr. and Mrs. Allen responded?

10 MS. DAVIES: I asked him what he did,
11 and that is what he is describing.

12 THE COURT: That is my understanding
13 so far. You may have another objection after
14 another question or two.

15 MR. STAFFORD: The fact I anticipate
16 the reaction was going to be Mr. and Mrs. Allen
17 asked him if he shot them because he was
18 standing there with a gun. I object to the
19 hearsay statement of Mrs. Allen.

20 THE COURT: You may object.

21 Proceed, please.

22 (Before the jury)

23 BY MS. DAVIES:

24 Q. I think I had asked you about -- you
25 were telling us that you went to Mr. and Mrs.

1 Allen's home. By the way, how far is Mr. and
2 Mrs. Allen's home from Charles' new house at
3 624?

4 A. Stone's throw. It's a hundred feet.

5 Q. Could you see Mr. and Mrs. Allen's
6 house from 624 Keith Street?

7 A. Yes, ma'am.

8 Q. What, I mean, from inside at 624
9 Keith, could you see the parents, Mr. and Mrs.
10 Allen's, home?

11 A. Yes, ma'am, you could.

12 Q. From where?

13 A. Kitchen window especially. It was a
14 garden window that Charles used to look and
15 point over there and say, "There's Mom," when
16 she was outside.

17 Q. So, how far did you have to go when
18 you went to tell the Allens about your discovery
19 on that morning of Friday, the thirteenth?

20 A. Across the street, it's less than a
21 hundred feet from my house. I think I left from
22 my house to tell them after I called the police.

23 Q. Did you still have the gun in your
24 hand?

25 A. I guess I did.

1 Q. Did you realize that?

2 A. No. No.

3 Q. So what did you do when you arrived at
4 Mr. and Mrs. Allen's house?

5 A. I walked in with the gun in my hand, I
6 guess, and I just sat there. They were having
7 their coffee.

8 Q. Were you calm?

9 A. No, ma'am.

10 Q. What were you doing?

11 A. Shaking.

12 Q. What did you tell Mr. and Mrs. Allen?

13 A. I said, "Somebody shot the boys."

14 Q. What was their reaction?

15 MR. STAFFORD: I object to the hearsay
16 nature and the relevancy, Your Honor, again.

17 THE COURT: Sustained.

18 MS. DAVIES: I didn't ask for
19 hearsay. I asked what their reaction was.

20 MR. STAFFORD: It would be nonverbal
21 hearsay. Would be the same thing.

22 THE COURT: It's sustained.

23 BY MS. DAVIES:

24 Q. Were they upset or excited when you
25 went in with that announcement?

1 MR. STAFFORD: Again, judge, I ask the
2 court to admonish the prosecutor when asking
3 questions she knows are not admissible.

4 MS. DAVIES: Your Honor, I object to
5 the sidebar remark encompassed in that
6 objection.

7 THE COURT: You may answer that in a
8 limited fashion, sir.

9 A. What was the question? What was their
10 reaction?

11 Q. Were they upset? What was their
12 demeanor when you walked in with this
13 announcement that somebody had shot their boys?

14 A. Disbelief at first. She asked me if
15 I was kidding, Mrs. Allen did.

16 Q. Did she seem upset or excited?

17 A. Not at first. As I didn't say it's a
18 joke, she started to believe what I said had
19 happened. And she started screaming.

20 Q. Were you still standing there with the
21 gun in your hand?

22 A. Yes, ma'am.

23 Q. What happened about that gun?

24 A. I think Mr. Allen came and took it out
25 of my hand.

1 Q. Did you stay there at the Allen's
2 house?

3 A. No, ma'am. Mrs. Allen ran back to her
4 bedroom.

5 Q. What did you do?

6 A. Mr. Allen followed her back there and
7 comforted her a bit. And then he and I left to
8 go over to the house.

9 Q. Did you take or go inside the house
10 with Mr. Allen?

11 A. No, ma'am. When we were walking back
12 over there, the police were pulling up into the
13 driveway.

14 Q. Did more than one police car come?

15 A. Yes, ma'am, I think three initially
16 came.

17 Q. Did you talk to the police about this?

18 A. Yes, ma'am.

19 Q. Once the police arrived, did they take
20 over--

21 A. Yes, ma'am.

22 Q. -- the investigation of the house?

23 A. Closed the house down and sealed it
24 off, tried to, you know, keep everybody out.

25 Q. Did you stay outside, or did you go

1 inside the house to point anything out to the
2 police?

3 A. Yes, I went back in with the
4 detectives a couple of times. There was a floor
5 safe in there that they didn't know the
6 combination to. It was inoperable.

7 Q. Inoperable?

8 A. Yes, ma'am.

9 Q. Why was that?

10 A. We put it in the slab, and we put it
11 too close to a wall, evidently, and when they
12 put the baseboard on, the lid wouldn't come
13 up. So Charles pointed that out to me a couple
14 of days before. And I knew there was nothing
15 in it. So, you know, I told them that at that
16 time, it hasn't been opened in a month. There
17 is nothing in there.

18 Q. So, the safe, if I am understanding
19 you correctly, was closed on that morning?

20 A. Yes, ma'am.

21 Q. Did you assist the police by answering
22 any of their questions or going in the house any
23 other way?

24 A. No. I think most of the other
25 interview was outside the house in a police car.

1 Q. About how long were the police out
2 there, do you recall?

3 A. They left approximately 2:30, three
4 o'clock. They arrived at 7:45, 8:00.

5 Q. Since you built the house, are you
6 familiar--

7 A. Oh, that's right. I went back in and
8 brought them a floor plan of the house so they
9 would have a working diagram.

10 Q. And, certainly, having constructed the
11 house, I take it you are familiar with the
12 layout of the house?

13 A. Yes, ma'am.

14 Q. During the construction of the house,
15 were there any pictures taken that showed the
16 layout of the house prior to Charles and Bradley
17 moving in?

18 A. During the construction of the house,
19 Charles kept a running video of the construction
20 of the house. He jokingly referred to it as
21 "this new house", and every week or so he would
22 give updates, give a narrative about what was
23 going on, what was going to happen, when we were
24 going to finish, pointing out all the special
25 things we did.

1 Q. Let me show you several things and ask
2 you to identify them, if you will. Without
3 going into the contents, at this point I just
4 want you to identify what these items are. Let
5 me ask you to look at what has been marked as
6 State's Exhibit 2 and State's Exhibit 3. Can
7 you tell me what is State's Exhibit 2?

8 A. This is Charles' last compilation of
9 recordings that he wrote, recorded.

10 MR. STAFFORD: Before they are
11 identified, I haven't had a chance to view them.

12 THE COURT: All right, we are going to
13 take a lunch break right now.

14 Ladies and gentlemen, we are going to
15 recess for lunch. I am going to admonish you
16 not to be discussing this case among
17 yourselves. You will get to talk about this
18 case among yourselves once the case has been
19 argued to you and you are back in the jury room
20 deliberating the case. We talked to so many
21 people over so many weeks as far as prospective
22 jurors are concerned, I don't remember if we
23 told some of you one thing and some another.
24 You are not allowed to take notes during the
25 course of the trial. When you go back to the

1 jury room right now, if you have taken any
2 notes, please turn them over to the bailiff.
3 There is only one official notetaker in this
4 courtroom, and that is going to be the court
5 reporter. If in jury deliberations you have
6 some kind of conflict as to testimony produced,
7 you may ask me in writing to have that read back
8 to you. If you would, please, follow the
9 bailiff back to the jury room right now.

10 (Jury removed from the courtroom)

11 THE COURT: Mr. Stafford, I thought
12 you had had access to everything that was being
13 produced.

14 MR. STAFFORD: No.

15 MS. DAVIES: I think he has.

16 MR. STAFFORD: The CD, State's Exhibit
17 2, again is a purported recording.

18 THE COURT: I don't know yet. As far
19 as we had gotten, it has been marked as State's
20 Exhibit No. 2 and the witness has described it I
21 believe as Charles' last compilation, but I
22 didn't know if that was going to be the
23 narrative as to the video or what it might be.

24 MR. STAFFORD: I object to State's
25 Exhibit No. 2 and State's Exhibit No. 3 under

1 the rules of evidence, that it has no bearing,
2 relevancy to anything other than what I have
3 been arguing about throughout this whole trial.

4 THE COURT: They haven't been tendered
5 to you or offered.

6 MR. STAFFORD: They are getting ready
7 to, and I jumped the gun and objected to this.

8 MS. DAVIES: Premature objection.

9 MR. STAFFORD: I am already making the
10 jury mad, which I think is a good ploy by the
11 State. I think all of this stuff is
12 irrelevant. I have to do nothing but object.
13 This again goes to the victim impact, which I
14 filed a motion in limine in good faith to keep
15 all this out. And I have to stand on my feet
16 all the time and alienate the jury.

17 THE COURT: As to State's 2 and 3 or
18 whatever that is. As to the photographs,
19 specifically have you seen the photographs?

20 MR. STAFFORD: I don't know which ones
21 she is trying to introduce.

22 MS. DAVIES: He has seen all the
23 photographs.

24 THE COURT: If they are all marked,
25 take a look at them now. She's holding the

1 video tape. Have you seen that?

2 MS. DAVIES: He has been provided with
3 a copy.

4 MR. STAFFORD: I object to the verbal
5 narrative as far as the -- if they want to cut
6 out the audio, I object to the audio. The video
7 I don't object to.

8 THE COURT: I will review it during
9 the lunch hour.

10 MR. STAFFORD: The audio would be
11 hearsay, would also be another ploy for them to
12 insert the voice of the deceased and denies my
13 client the sixth amendment right, any possible
14 cross-examination. But as far as the layout of
15 the house, I would also object to any part of
16 the video that shows Charles or Brad.

17 THE COURT: We are going to be in
18 recess until 1:45 p.m.

19 (Lunch recess; after which, the
20 following proceedings were had:)

21 THE COURT: Do you have anything else
22 you want to put on the record before we bring
23 the jury back?

24 MR. STAFFORD: Well, everything I have
25 told you was off the record. So that is the

1 problem.

2 THE COURT: Everything I told you is
3 also off the record until now, but if I can have
4 some of those exhibits I can tell you what I am
5 going to do with some of them.

6 MR. STAFFORD: Okay.

7 MS. DAVIES: I believe when we broke
8 for lunch--

9 THE COURT: You were in the process of
10 marking.

11 MS. DAVIES: Things had not even been
12 identified in front of the jury.

13 THE COURT: But had been marked.

14 MS. DAVIES: I have pre-marked
15 exhibits.

16 THE COURT: Specifically as to
17 pre-marked State's Exhibits 2 and 3.

18 MR. STAFFORD: I object and ask that
19 they not be displayed for any purposes in front
20 of the jury.

21 THE COURT: Your objection will be
22 sustained as to State's Exhibits 2 and 3 as
23 pre-marked.

24 MR. STAFFORD: I also object to the
25 introduction of it as well.

1 THE COURT: I think it would at least
2 include the introduction of it.

3 MS. DAVIES: As to the rest of the
4 exhibits that I have pre-marked--

5 THE COURT: I am going to have to hear
6 the predicate on the photos.

7 MR. STAFFORD: I have no objection to
8 the actual still photos as being a true and
9 accurate depiction of the house. I have been
10 to the house, I know what it looks like, I have
11 no objection.

12 MS. DAVIES: I have not had an
13 opportunity to identify or properly lay the
14 predicate for the photos or for a video tape
15 which has been pre-marked as State's Exhibit 11,
16 although that number hasn't been used in front
17 of the jury.

18 THE COURT: What has been pre-marked
19 as State's 11 is the video that we have all
20 previously discussed and which we have all
21 seen.

22 MR. STAFFORD: My objection is proper
23 predicate to be laid under the rules of criminal
24 evidence. Secondly, I would object to any audio
25 portion of the tape.

1 THE COURT: Let me cut you off for a
2 minute. It's a little difficult to hear your
3 objection on predicate since she hasn't had to
4 lay it yet. At the very least, I would not be
5 allowing the audio portion of the tape nor the--

6 MS. DAVIES: Your Honor, I would ask
7 to be allowed to offer at least the entire video
8 portion. I expect that my witness is going to
9 be able to testify that this is an accurate
10 depiction of the layout of the house. And
11 absent the audio, I will just have to rely on
12 David Sanders to describe what is being seen as
13 that video is shown.

14 THE COURT: Is there another video
15 tape which has been pre-marked? Is there a
16 police video tape of the house?

17 MS. DAVIES: I haven't pre-marked it,
18 but there is a police video tape of the house;
19 however, the police video tape tends to show
20 specific areas of the house. It does not show
21 the layout of the house as fully as this one
22 does. This video tape--

23 THE COURT: As a walk through by
24 comparison.

25 MS. DAVIES: That's right. I think

1 that is a good description of that exhibit. It
2 is a walk through. And the police video doesn't
3 take that approach. And given the defendant's
4 statement, which we all know is going to be
5 offered into evidence, that describes his
6 actions as he walked in and through the house, I
7 think this video, the picture portion of it
8 would be helpful to the jury to understand the
9 appearance of the house as one does walk
10 through.

11 MR. STAFFORD: My further objection,
12 this does not accurately and truly depict a
13 condition of the scene of the crime as it was at
14 the time my client was charged with the present
15 offense. I think under the rules of evidence
16 that the proper predicate--

17 THE COURT: Are you saying that the
18 architectural schematics wouldn't be able to be
19 introduced?

20 MR. STAFFORD: I think the State has
21 floor plans already drawn out, judge. They have
22 a big bulletin board here type of layout.

23 THE COURT: Are you saying that does
24 depict it?

25 MR. STAFFORD: Yes, at the time of

1 commission of the offense.

2 THE COURT: Wouldn't this be even
3 closer if it has walls up and everything? It
4 has everything except furniture.

5 MR. STAFFORD: As far as the naked
6 house, yes, that would depict the house.

7 MS. DAVIES: That is basically what it
8 is, is an empty house.

9 MR. STAFFORD: I object to the scenes
10 of the deceased.

11 THE COURT: The reflection of the
12 deceased in this video tape?

13 MS. DAVIES: Your Honor, I don't see
14 anything prejudicial about that. It's just a
15 picture of the man who is taking the photograph.

16 THE COURT: I don't intend to try this
17 a second time, if possible, so, if you want to
18 offer this with those portions blocked out, stop
19 it on a certain number on the VCR and you offer
20 the proper predicate, you may do so.

21 MS. DAVIES: Let me be sure that I
22 understand what the court is suggesting.

23 THE COURT: If you have the proper
24 predicate, I will allow this tape as to its
25 introduction without the audio and without these

1 scenes showing the deceased on this tape.

2 MS. DAVIES: Would the court consider
3 the fact that the deceased Charles Allen, that
4 is a very accurate depiction of his size and
5 physique at the time of the offense, which I
6 think would be relevant?

7 THE COURT: You haven't argued that
8 one before.

9 MS. DAVIES: Well, now I am. The
10 defendant in his statement says that Charles
11 Allen supposedly threatened him. He is so
12 afraid, he goes into the house. I think his
13 size and physical appearance -- he describes
14 that he is just in his underwear, maybe an
15 undershirt.

16 THE COURT: Depending on what comes
17 into the record, you might be able to reoffer
18 this at a later time in this trial, but I am not
19 going to allow the reflective scenes from this
20 tape pre-marked as State's Exhibit 11.

21 MR. STAFFORD: I presented you a
22 motion on the impact evidence. Again I would
23 ask the court to set certain boundaries for the
24 State and also identify those boundaries so I do
25 not have to continuously offend this jury,

1 offend the family by having to object to things
2 that I don't think are relevant. The rules of
3 evidence in Boothe vs. Maryland and even Payne
4 vs. Tennessee would hold it's not relevant. And
5 my contention, judge, is that under the Code of
6 Criminal, Texas Rules of Criminal Evidence, our
7 Texas Constitution, that the evidence which has
8 been elicited from this prospective witness as
9 to the long, long family history, all those
10 things have no bearing at the guilt and
11 innocence stage. And there are going to be some
12 future witnesses that testify, that without
13 guidance from this court to direct the
14 prosecutor, she's going to take whatever leeway
15 that is not defined for her. I don't blame her.

16 THE COURT: I believe the State has
17 been constrained pretty much up to this point.
18 I am going to rely on your objection in the
19 future. I believe there may only be one more
20 witness under this motion who is going to
21 testify on the case in chief.

22 MR. STAFFORD: So the court is
23 overruling my motion?

24 THE COURT: I am going to rely on you
25 to make objections at the proper time. In its

1 present form, the motion is denied.

2 MR. STAFFORD: Thank you.

3 THE COURT: Are y'all ready to proceed?

4 MS. DAVIES: Yes, sir.

5 THE COURT: Bring in the jury,
6 please.

7 (Jury in)

8 THE COURT: When we broke, ladies and
9 gentlemen, the State still had this witness on
10 direct examination.

11 Proceed.

12 MS. DAVIES: May I approach?

13 THE COURT: Yes, ma'am.

14 DAVID SANDERS,
15 called as a witness by the State and on the
16 stand at the time of the recess, resumed the
17 stand and testified further as follows:

18 DIRECT EXAMINATION

19 (CONTINUED)

20 BY MS. DAVIES:

21 Q. Mr. Sanders, I think I was showing you
22 some exhibits that have been marked for
23 identification purposes. I would like for you
24 first to look at these photographs that are
25 marked State's Exhibits four through nine. If

1 you would look at those. Can you tell the jury
2 whether the first photographs, State's four
3 through eight, are depictions of the exterior of
4 624 Keith?

5 A. Yes, ma'am. And eight is the studio
6 behind the house.

7 Q. And State's Exhibit 9, is that
8 depiction of a scene in the kitchen at 624
9 Keith?

10 A. Yes, ma'am, it is.

11 Q. In each instance, are those
12 photographs accurate depictions of the scene?

13 A. Yes, ma'am.

14 Q. Now, State's Exhibit 4, can you tell
15 us were you present when that photograph was
16 taken?

17 A. Yeah, I was.

18 Q. Was that taken on September 13, 1991?

19 A. No, ma'am, it wasn't.

20 Q. Despite the fact that it was taken at
21 a later date, is that a fair and accurate
22 depiction of the relationship of 624 Keith
23 driveway to the driveway at your house next
24 door?

25 A. Yes, ma'am.

1 Q. Is that the same way it appeared back
2 on September 13, 1991?

3 A. Yes, ma'am.

4 Q. And the balance of the photographs
5 that you looked at, are those the way the
6 location looked back on September 13, 1991?

7 A. Yes, ma'am.

8 MS. DAVIES: I am offering State's
9 Exhibits four through nine.

10 MR. STAFFORD: No objection, Judge.

11 THE COURT: State's Exhibits four
12 through nine are admitted.

13 BY MS. DAVIES:

14 Q. While we are identifying things, let
15 me show you a couple of other exhibits, Mr.
16 Sanders. I have got a diagram marked State's
17 Exhibit 10. Have you looked at that diagram
18 before?

19 A. Yes, ma'am, I have.

20 Q. Is it an accurate depiction of the
21 layout of the interior of the house as it
22 appeared on that Friday morning, September 13th,
23 when you went in and found Charles and Brad?

24 A. Yes, ma'am, it is. No, wait a
25 minute. That door wasn't open.

1 Q. Well, as far as the layout, the
2 floorplan?

3 A. Yes, ma'am.

4 Q. There are indications of where there
5 are doors and windows in the house. I am not
6 asking you whether those--

7 A. Were open or closed?

8 Q. Were open or closed.

9 A. That is an accurate depiction.

10 Q. And look at State's Exhibit 12 and
11 tell us whether have you looked at this before
12 also?

13 A. Yes, ma'am, I have.

14 Q. Is that an accurate depiction of the
15 relationship or the area there around Keith Street?

16 A. Yes, ma'am.

17 MS. DAVIES: Your Honor, I will ask
18 the court to permit me to use State's Exhibits
19 10 and 12, after tendering to defense counsel
20 for inspection, just for assistance in the jury
21 understanding various witnesses' testimony. I
22 am not offering it at this time because I expect
23 witnesses to place additional marks on them
24 during the course of their testimony.

25 MR. STAFFORD: I have previously seen

1 these exhibits, and I have no objection.

2 THE COURT: All right.

3 BY MS. DAVIES:

4 Q. Mr. Sanders, first, if you would, I
5 ask you to step down around here and help me a
6 little bit. Move a little closer to the jury.
7 Now, this is a small courtroom and we have the
8 additional problem of fourteen people here. Let
9 me step around this way. Hopefully, I can get
10 out of the way.

11 Can you show the jury where Keith
12 Street is on State's Exhibit 12?

13 A. This is Allen-Genoa Road and this is
14 Keith Street.

15 Q. Can you point out on State's Exhibit
16 12 where 624, Charles and Brad's house is?

17 A. It's where the dot is located right
18 here.

19 Q. I am going to use the red ink for
20 624. Now, where would your house number 618 be?

21 A. Right there. Right next to it.

22 Q. I am going to write 618. Is that
23 right? Right next door?

24 A. That is it.

25 Q. Where are the driveways between -- are

1 there two driveways between your houses or just
2 one?

3 A. He has a driveway and I have a
4 driveway, and they are eight to ten feet apart.

5 Q. All right. Is there a house on the
6 other side of 624 Keith?

7 A. Yes, ma'am, it's 640.

8 Q. You built it?

9 A. Yes, ma'am.

10 Q. That is 640?

11 A. Yes, ma'am.

12 Q. Was it completed at the time that you
13 went into Charles and Brad's house and found
14 their bodies?

15 A. Yes, ma'am.

16 Q. Was there somebody living there?

17 A. Yes, ma'am.

18 Q. Now, can you show the jury where Mr.
19 and Mrs. Don Allen's house is?

20 A. It's right here on the other side of
21 the street.

22 Q. Do you happen to know their house
23 number?

24 A. 609.

25 Q. Let me get a couple of photographs. I

1 think I left them over here. I want you to keep
2 your voice up for the court reporter. First
3 let's look at State's Exhibit 4. I want you
4 to, if you would, step around here and show the
5 jury -- we'll have to start at this end and
6 repeat as we go down. Now, this is the
7 photograph I believe you said was taken not on
8 the morning of September 13 but later?

9 A. Correct.

10 Q. Can you show us or explain to the jury
11 what this photograph shows?

12 A. You are standing down this way looking
13 towards my house and Mr. and Mrs. Allen's
14 house. You are standing directly in front of
15 Charles Allen's house at 624. Standing right
16 there.

17 Q. You're standing -- I am going to write
18 SX-4. What direction would you be looking?

19 A. This way.

20 Q. If I put an arrow this way?

21 A. That's it.

22 Q. What is this brick thing here?

23 A. Mail box.

24 Q. For whose house?

25 A. 624 Keith, Charles Allen.

1 Q. What is this? It appears to be a
2 driveway. Whose driveway is that?

3 A. Mr. Allen's driveway.

4 Q. When you say Mr. Allen, are you
5 talking about Charles or his dad?

6 A. Talking about Charles.

7 Q. And then can we see your driveway in
8 this photograph?

9 A. Yes, ma'am. It's right there.

10 Q. Right here?

11 A. Yes, ma'am.

12 Q. Let's walk down this way so these
13 jurors can see. Would you point out Charles'
14 mail box and driveway?

15 A. Mail box and this is his driveway, and
16 this is my driveway.

17 Q. Let's step down this way so these
18 jurors can see. Point out Charles' mail box and
19 driveway.

20 A. Charles' mail box and driveway. And
21 my driveway.

22 Q. Now, I notice there is a lot of trees
23 and shrubbery here. This greenery, this growth,
24 was that there back in 1991 also?

25 A. Yes, ma'am.

1 Q. This row of trees and greenery, is
2 that between your house and Charles' house?

3 A. Yes, ma'am, it is.

4 Q. Let's start down here. State's
5 Exhibit 5. Can you tell us what this is a
6 picture of?

7 A. That is a picture of Charles Allen's
8 residence at 624 Keith on September 13, 1991.

9 Q. Now, through the trees I appear to be
10 seeing -- I think I see another house. Is that
11 correct?

12 A. Yes, ma'am.

13 Q. Whose house is that?

14 A. My house. That is where I reside.

15 Q. And can you tell me what this is right
16 down here in the middle right side of that
17 photograph?

18 A. It's--.

19 Q. Appears to be on the driveway or near
20 the driveway.

21 A. I don't know what time this was taken,
22 but after the officers got through with the
23 house, I pulled out all the carpet and trash and
24 stuff here.

25 Q. Earlier, was there any construction

1 debris in front of the house?

2 A. Yes, ma'am.

3 Q. In this location?

4 A. Yes.

5 Q. Let's move down this way and show
6 these jurors. Would you point out in State's
7 Exhibit 5 which is Charles' house?

8 A. This is Charles' house here.

9 Q. And yours?

10 A. My house is back over here. There is
11 part of it.

12 Q. You need to keep your voice up for the
13 court reporter. Right here?

14 A. That is my house there, correct.

15 Q. All right. Over here on this
16 right-hand side, was there any construction
17 debris in front of the house?

18 A. Yes, construction debris to the left
19 side of the driveway.

20 Q. Let's move down this way to be sure
21 these jurors can see.

22 Can you point out your house in
23 State's Exhibit 5?

24 A. My house is over here. This is
25 Charles Allen's house. This is the driveway.

1 That is the debris on the side of the driveway.
2 This is on the morning of September 13, 1991.

3 Q. Now, State's Exhibit 6. It appears to
4 be still the front of Charles' house. I want to
5 call your attention to this vehicle that is in
6 the driveway. Do you know whose vehicle that
7 is?

8 A. Yes, ma'am. That is Charles' Blazer.

9 Q. Was it there when you went to the
10 house that morning?

11 A. Yes, ma'am, it was.

12 Q. While we are looking at this, let's
13 look also at State's Exhibit 7. We are seeing
14 the front end of a vehicle. Is that the same
15 vehicle that we are seeing the rear of in
16 State's Exhibit 6?

17 A. Yes, ma'am, it is.

18 Q. That is Charles' car?

19 A. Correct.

20 Q. What is this?

21 A. That is Bradley's motorcycle.

22 Q. Was Charles' car and Bradley's
23 motorcycle there in the driveway like they are
24 shown when you went to the door that morning?

25 A. Yes, ma'am, they were.

1 Q. Tell the jury also what, here on the
2 right of State's Exhibit 7, what this building
3 is.

4 A. That is the recording studio.

5 Q. The white frame building?

6 A. Yes, ma'am.

7 Q. Was the door open like that when you
8 arrived that morning?

9 A. I don't remember, honestly.

10 Q. Move down this way and let's point out
11 the vehicle. If you would point out Charles'
12 car.

13 A. Here's Charles' Blazer here, the rear
14 end. Standing on the front side. And that is
15 the same vehicle. That is Bradley's
16 motorcycle.

17 Q. And the recording studio?

18 A. This is the recording studio back over
19 here.

20 Q. Again for these jurors, if you would
21 point out Charles' car.

22 A. Front of 624, Charles' house. Here is
23 the driveway we looked at. Back of Charles'
24 Blazer. Here is the front of Charles' Blazer.
25 Bradley's motorcycle. And recording studio.

1 Q. Is this picture of the recording
2 studio, is this where you were going in and out
3 the evening before as you described checking on
4 the floor?

5 A. Yes, ma'am, it is.

6 Q. Is that the only door to the recording
7 studio?

8 A. Yes, ma'am, it is.

9 Q. I forgot to ask you here on State's
10 Exhibit 7, can you see the door that you went to
11 and unlocked to go into the house that morning?

12 A. Yes, ma'am, it's this one right here.

13 Q. Let's move down this way and show
14 these jurors which door it was that you entered
15 the house by on September 13th.

16 A. That is the utility room. That is
17 the master bedroom. That is the one I knocked
18 on also.

19 Q. Which one did you enter?

20 A. Utility room door right here.

21 Q. We need to let these jurors see.
22 Point to the utility door where you entered.

23 A. This one.

24 Q. The other one you knocked on?

25 A. Master bedroom exterior door.

1 Q. Did you try the door handle on the
2 master bedroom door to see whether it was
3 locked?

4 A. Yes, ma'am.

5 Q. Was it locked?

6 A. Yes, ma'am.

7 Q. What about the front door, did you try
8 the front door to see whether it was locked?

9 A. No, I didn't.

10 Q. Tell the jury what State's Exhibit 8 is.

11 A. Just a different view of the recording
12 studio. This is that door that was open. It's
13 just a different view of it.

14 Q. Now, there looks to be a desk and some
15 lumber out there.

16 A. This is what we pulled out of here
17 while the floor was drying and set it outside.

18 Q. You had pulled this desk out of where?

19 A. Out of this first room right here.
20 You can't really see in there.

21 Q. Is that because the floors were being
22 refinished?

23 A. Yes.

24 Q. So, as far as you know, those items --
25 I notice there is a beer bottle here on this

1 desk.

2 A. I think that had been there about a
3 week.

4 Q. You don't know who left that beer
5 bottle there?

6 A. No.

7 Q. Now, let me show you what you have
8 identified as State's Exhibit 9. Can you tell
9 the jury what this shows?

10 A. This is what I saw when I walked in.

11 MR. STAFFORD: He is blocking our
12 view.

13 A. This is the view coming in from the
14 utility room, the door I went in. There is
15 bloody footprints. I thought somebody had
16 stepped on something. Caulking gun and paint
17 brush that I had in my hands and set down on the
18 counter. This is the kitchen. That is what I
19 first saw.

20 Q. Do you remember, when you got to this
21 point and saw this scene, do you remember
22 whether you walked through the kitchen where
23 that blood is on the floor, or did you go the
24 other way?

25 A. I think I came back around the other

1 way.

2 Q. Point out for these jurors what it is
3 you saw on the floor when you first walked in.

4 A. I entered through the utility room
5 which leads right into the kitchen. There is
6 the bloody footprints. I didn't think too much
7 of it at the time. There is the caulking gun I
8 put down on the counter.

9 Q. Right here?

10 A. Yes, ma'am.

11 Q. Show these jurors here.

12 A. Once again, walking in through the
13 utility room, kitchen floor.

14 Q. And the caulk gun that you had with
15 you?

16 A. Here. Just kind of walked in and set
17 it down there and said somebody stepped on
18 something.

19 Q. Okay. Let me get you to help us a
20 little bit with this other diagram. Let's put
21 it up here. State's Exhibit 10. Does this show
22 the layout of the house that you built for
23 Charles Allen?

24 A. Yes, ma'am. Fairly adequately.

25 Q. Perhaps not to exact scale?

1 A. No, ma'am.

2 Q. And we are not suggesting that, for
3 instance, here is -- you described the door that
4 you knocked on that was locked?

5 A. Correct.

6 Q. I believe you said the door to the
7 master bedroom?

8 A. Correct.

9 Q. Can you point that out for us on this
10 diagram?

11 A. It's right here. It just shows that
12 it swings open that way.

13 Q. The fact that this is at an angle
14 showing the doorway is no indication that that
15 door was open when you went that morning?

16 A. Correct.

17 Q. Now, can you show us where the door is
18 on this diagram that you entered by, where you
19 used your key and walked into the house?

20 A. The motorcycle was sitting right
21 here. Charles' vehicle was right here. I
22 walked -- I eventually came in this door. I
23 went over here initially and knocked at both of
24 them. No answer. I went back next door, got my
25 key, came over here, opened up this door and

1 walked in here. This thing was back a little
2 bit. You can see the blood through here.

3 Q. I am going to take a blue marker and
4 just put an arrow. If I put your initials
5 D.S., would that adequately show where you
6 entered the house?

7 A. That is the entry point, yes.

8 Q. You had to use your key?

9 A. Correct.

10 Q. In this picture that we were looking
11 at of the kitchen, State's Exhibit 9, can you
12 pinpoint for us on this diagram, State's Exhibit
13 10, what portion of the house one would be
14 seeing?

15 A. Well, this marks off depicted in this
16 representation. Here is the end of this
17 counter. You can see this is a lot wider than
18 this is here. This was cut back some over here
19 and have a big entryway through here. There is
20 the kitchen. Here is the window that goes right
21 here. Kitchen sink.

22 Q. You pointed out the window. And there
23 is a window here on this diagram. I think you
24 described it as a garden window?

25 A. Yes, ma'am.

1 Q. Was there any covering on that window?

2 A. No. The only window in the house that
3 didn't have cover.

4 Q. So, one could see in or out of that
5 window freely?

6 A. Yes, ma'am.

7 Q. What, mini blinds on the rest of the
8 house?

9 A. Mini blinds on the rest, as you can
10 see. The doors were French doors but they had
11 coverings on them also.

12 Q. To mark on the diagram, State's
13 Exhibit 10, the location of this scene, State's
14 Exhibit 9, would it be accurate to say that the
15 scene--

16 A. You are standing about here.

17 Q. About here?

18 A. Yes.

19 Q. I am going to write SX-9. What
20 direction would you be looking?

21 A. This way.

22 Q. I am going to draw an arrow the
23 direction you have indicated.

24 Now, do you recall what route you took
25 to get back to the rest of the house after you

1 saw the blood on the floor?

2 A. Came through here, saw the blood. Set
3 my work tools here. Saw the blood, didn't know
4 if there was glass on the floor or what. I
5 think I came back around here. Walked toward
6 probably back this way behind the sofa, and I
7 saw blood here at this door of Bradley's room.

8 Q. You are pointing to this location.
9 You are referring to this room as Brad's room?

10 A. Yes, ma'am.

11 Q. Let's write Brad's room on there.
12 Would that be the front of the house?

13 A. Yes, ma'am. I can show you on the
14 pictures if you want to see where it is. If you
15 want to look at the exterior.

16 Q. State's Exhibit 6, can you point out
17 which windows where Brad's room is?

18 A. This is the front of the house. It
19 sticks out, as you can see, from the rest of the
20 slab. And this is Brad's room right there. Has
21 three windows and three transits up above.

22 Q. So you are pointing to these three
23 windows right in front?

24 A. Yes, ma'am.

25 Q. Would we also be accurate if we refer

1 to that as the front bedroom on the house?

2 A. Yes, ma'am.

3 Q. Front in terms of the street?

4 A. Yes, ma'am.

5 Q. During the planning stages, was -- I
6 notice this says bedroom here on our diagram,
7 State's Exhibit 10. On your plans, is that
8 characterized as a bedroom?

9 A. Originally, yes.

10 Q. And how did Charles and Brad use that
11 room?

12 A. Workout room. We kind of modified it
13 as we were going. Just did some structural
14 changes in there to support some of those that
15 hang down and and put a barbell here so you
16 could stretch out on it. I didn't make a closet
17 here, I just left an opening so they could put
18 their stuff in.

19 Q. When you say their stuff, what kind of
20 things were kept in that closet? Let's call
21 this workout room or weight room.

22 A. We call it the weight room.

23 Q. Weight room. Okay. Use the
24 abbreviations. What kind of things were kept in
25 this open closet in the weight room?

1 A. Originally we were supposed to put the
2 bench this way with the barbell going this way.
3 That is why we didn't put any doors on it. We
4 didn't quite get that far. The weight bench was
5 here, barbells were here, the dumbbells, the
6 barbells.

7 Q. The barbells and the bars to the
8 weight bench, exactly where were they kept, in
9 this closet or out?

10 A. They were out here in this area. You
11 come in, work out and, you know, access.

12 Q. Is that something that your friends
13 and you would do, work out in there?

14 A. Donnie and Charles worked out Monday,
15 Wednesday, Friday. Me and my brother would join
16 them occasionally. But that is what the purpose
17 of the room was for.

18 Q. You mentioned that you came around in
19 back of this sofa. Was the furniture arranged
20 so plenty of room to walk in back or on either
21 side of that sofa to get to the hall?

22 A. Yes, ma'am, it was.

23 Q. Again to continue on the layout of the
24 house. If you are standing here -- is this what
25 you would call the living room area?

1 A. Yes, ma'am.

2 Q. Could you see into the weight room
3 from that room?

4 A. Only from behind the sofa here.

5 Q. In other words, was this door from the
6 living room to the hall and the door to the
7 weight room, were they aligned in such a way
8 that one could see?

9 A. Right. This is just a cased opening,
10 there is no door here. There was a straight
11 shot through here. There's a door here on this
12 bedroom and on this bedroom. That is just an
13 opening.

14 Q. Here off the hallway there is another
15 room. Whose bathroom was that?

16 A. Brad's bathroom.

17 Q. And then the room at the end of the
18 hall, whose room was that?

19 A. Master bedroom. Charles' room.

20 Q. Now, when you went -- who was on the
21 bed?

22 A. Charles was, just about like it shows.

23 Q. Even though he was difficult to
24 recognize?

25 A. Yes, ma'am.

1 Q. Who was at the door? Was that Bradley
2 Dean Allen in Brad's room?

3 A. Yes, ma'am, it was.

4 Q. Did you move any items that were on
5 the floor?

6 A. Not unless I kicked them. Not
7 intentionally or not that I realized.

8 Q. And, finally, this last room, this is
9 what?

10 A. It's the master bath. There is a
11 closet off over here, a corner unit jacuzzi and
12 separate shower and a john room.

13 Q. Did you actually go into that room
14 that morning when you found your friends?

15 A. Yes, ma'am, I did.

16 Q. Is that when you did your walk through
17 with your gun?

18 A. Yes, ma'am.

19 Q. Did you find anything out of place
20 that you noticed in there?

21 A. Not really. This room was untouched
22 basically.

23 Q. When you and your brother went into
24 the house, were either one of you walking around
25 in sock feet? In other words, just socks on

1 your feet but walking around with socks on?

2 A. No, ma'am.

3 Q. Did you have on shoes?

4 A. I had on some boat shoes.

5 Q. And do you know whether your brother
6 had on shoes?

7 A. I can't recall.

8 Q. Do you recall whether he was walking
9 around in socks?

10 A. No, he wasn't in socks.

11 Q. Either bare feet?

12 A. Either barefoot or shoes.

13 Q. You can have a seat.

14 You mentioned earlier that at some
15 point you had done something with the carpet to
16 the house?

17 A. I pulled it all out.

18 Q. When did you do that, do you recall?

19 A. The officers left at 3:00. I was
20 probably in there at 3:15.

21 Q. Why did you do that?

22 A. I didn't want it in there. It was
23 bloody. Not all of it, but I just didn't want
24 anything in there.

25 Q. Did you do that yourself?

1 A. No, my father and my brother,
2 cousins. I think some of the Allens might have
3 assisted. I don't remember.

4 Q. When you went through the process of
5 pulling out that carpet, did you notice whether
6 there were any areas that were heavily damaged
7 with blood?

8 A. Yes, ma'am, two areas come to mind.

9 Q. What area of the house was that in?

10 A. In the master bedroom directly under
11 Charles' head. He was hanging off the bed. His
12 head was. And in Brad's room right up next to
13 the door. Both of those seeped through the
14 carpet, the pad and ended up on the concrete
15 floor.

16 MS. DAVIES: I pass the witness.

17 MR. STAFFORD: Judge, could I see his
18 statement under rule 614?

19 MS. DAVIES: May the record reflect
20 that I am tendering a two page statement given
21 by David Sanders to defense counsel.

22 THE COURT: It will.

23 MR. STAFFORD: May I have a moment,
24 judge?

25 THE COURT: Yes, sir.

1 MR. STAFFORD: Your Honor, I don't
2 have any questions at this time. I reserve my
3 right to cross at a later time.

4 THE COURT: You may stand down.
5 Call your next witness.

6 MS. DAVIES: The State calls Jim
7 Bolding.

8 Excuse me, let me call K. W. Rogers
9 first.

10 K. W. ROGERS
11 was called as a witness by the State and, having
12 been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. DAVIES:

15 Q. Would you, please, state your name for
16 the record?

17 A. Kirk W. Rogers.

18 Q. How are you employed?

19 A. City of Houston Police Department.

20 Q. Tell us how you are employed.

21 A. City of Houston Police Department.

22 Q. How long have you been in law
23 enforcement?

24 A. Approximately thirteen years this
25 January.

1 Q. What is your assignment with the
2 Houston Police Department?

3 A. I ride radio patrol.

4 Q. Any particular area of the city?

5 A. The southeast part of town around
6 Pasadena city limits, Almeda Mall area.

7 Q. Does that include the area of the city
8 where 624 Keith Street is?

9 A. Yes, ma'am.

10 Q. Is that location in Harris County,
11 Texas?

12 A. Yes, ma'am, it is.

13 Q. Officer, I want you to think back to
14 the morning of Friday, September 13, 1991. Did
15 you have an occasion to go to 624 Keith?

16 A. Yes, ma'am.

17 Q. How was it that you happened to go there?

18 A. I was dispatched to a possible
19 shooting.

20 Q. What time of day was it?

21 A. Approximately 8:30, 8:32.

22 Q. Is that when you arrived?

23 A. I arrived at 8:34.

24 Q. Is that approximately?

25 A. Yes, ma'am, approximately.

1 Q. Officer Rogers, can you describe for
2 the jury what you saw when you rolled up to 624
3 Keith?

4 A. There was a man standing in the
5 driveway later that I found out was the
6 complainant, or the reportee. And he flagged me
7 down, and I stopped my car. I had to back up
8 because I passed the driveway just a little bit.

9 Q. You say you passed the driveway a
10 little bit. Did you nearly pass the house?

11 A. Yes, ma'am.

12 Q. Is there any reason you were passing
13 by?

14 A. I just didn't see the numbers on the
15 house. It was sitting up off the street a
16 little bit. I didn't see the numbers on the
17 house. I was looking for numbers on mail boxes
18 or on the street.

19 Q. Did you notice whether there was any
20 trash or debris at the street by that house?

21 A. Yes, ma'am. There was some trash and
22 debris on the right-hand side of the driveway.

23 Q. Did the house appear from the street
24 to be occupied?

25 A. It looked like it was under construction.

1 Q. So then, when you were flagged down by
2 someone in the driveway, was that a Mr. Sanders?

3 A. Yes, ma'am.

4 Q. What did you do?

5 A. I pulled up into the driveway and got
6 out and asked him what was going on.

7 Q. Did he give you some information?

8 A. He told me something bad had happened
9 inside, and he was real excited, and I tried to
10 calm him down so we could talk, and we went to
11 the back of the house to the back door.

12 Q. At that point, did you even try to
13 enter through the front door?

14 A. No, ma'am.

15 Q. When you went to the back of the
16 house, what did you see?

17 A. There was a truck parked in the
18 driveway and a motorcycle parked on the back
19 porch, and the back door was open.

20 Q. At that point, did you know whether
21 anyone was dead at that location? Or what was
22 your objective as you entered?

23 A. To find out what was wrong inside the
24 house.

25 Q. Were you alone in terms of law

1 enforcement at that point?

2 A. Two other officers had arrived right
3 behind me.

4 Q. So, did all of you go into the house?

5 A. I went into the house first.

6 Q. Did Mr. Sanders go in with you?

7 A. No, ma'am.

8 Q. Had he given you any information?

9 A. Just that something bad had happened
10 inside.

11 Q. And what did you do when you went into
12 the house then?

13 A. Went into the back door of the house,
14 looked into the kitchen area, saw some bloody
15 footprints in the kitchen, went on into the
16 living room area, didn't see anything, looked
17 down the hall area and could see blood on the
18 walls and on a door and went and checked the
19 first bedroom door to the left.

20 Q. Were you able to go into that first
21 bedroom?

22 A. No, ma'am.

23 Q. Why not?

24 A. One of the deceased was up against the
25 door to where we couldn't open the door but just

1 a few inches.

2 Q. At this point, as you are walking
3 through the house, did you have your weapon
4 drawn or?

5 A. I had my weapon in my hand, yes, ma'am.

6 Q. Why was that?

7 A. Mr. Sanders wasn't sure if anybody
8 else was in the house that had, you know,
9 committed this act of violence.

10 Q. So when you tried that first bedroom
11 door and were not able to get in, what did you
12 do?

13 A. I immediately -- I could see blood
14 coming down the hallway. I looked down the
15 hallway and walked down that hallway, checked
16 the bathroom doors as I passed, and when I got
17 to the back bedroom I could see another young
18 man laying in the bed.

19 Q. What was his condition from your first
20 look?

21 A. That he was dead.

22 Q. Did you or the other officers who went
23 into the house with you at that point, did any
24 of you disturb anything that was in the house?

25 A. No, ma'am.

1 Q. Did you notice whether the lights were
2 on in the house?

3 A. I don't recall the lights being on in
4 the house.

5 Q. Once you walked through, what did you
6 do next?

7 A. I immediately turned the scene over to
8 the other two officers that were there, and I
9 walked outside and asked Mr. Sanders if he had a
10 telephone that I could use.

11 Q. What was your purpose in using the
12 telephone?

13 A. I needed to call the homicide division
14 and CSU unit and the M. E.'s office.

15 Q. Did you do that?

16 A. Yes, ma'am, I did.

17 Q. And did people from those offices come
18 out?

19 A. Yes.

20 Q. At 624 Keith. Now, once you called
21 them, what was your responsibility and the
22 responsibility of the other two officers who
23 were there?

24 A. Just to secure the scene and not let
25 anybody disturb the scene until the homicide

1 detectives got there.

2 Q. Did you do that?

3 A. Yes, ma'am.

4 Q. Did an ambulance crew arrive?

5 A. Yes, ma'am.

6 Q. About how long was it before that
7 happened?

8 A. Approximately two to four minutes
9 after we arrived.

10 Q. When they arrived, did they move the
11 bodies?

12 A. No.

13 Q. Why not?

14 MR. STAFFORD: That would be
15 speculation as to why not.

16 THE COURT: Sustained.

17 BY MS. DAVIES:

18 Q. Did you give any instructions in
19 regard to whether or not those bodies should be
20 moved?

21 A. Yes, ma'am. We told them not to touch
22 or disturb anything.

23 Q. Did you see to it that that
24 instruction was followed?

25 A. Yes, ma'am.

1 Q. Other than securing the scene for the
2 crime scene unit and the detectives and
3 specialists who were on the way, were you
4 involved in the investigation of this case?

5 A. Just securing the scene and initially
6 talking to Mr. Sanders. That was it.

7 MS. DAVIES: Pass the witness.

8 CROSS EXAMINATION

9 BY MR. STAFFORD:

10 Q. Officer Rogers, did you prepare a
11 supplement to the offense report?

12 A. I did not.

13 Q. Did you turn over your field notes or
14 anything to the detectives, or what kind of
15 verbal report -- who did you make a verbal
16 report to?

17 A. The officers that were initially
18 dispatched to the call made the supplemental
19 report.

20 Q. Who was that, can you tell me?

21 A. Mike McCoy.

22 Q. Did you read that to refresh your
23 memory prior to testifying today?

24 A. Yes, sir.

25 MR. STAFFORD: May I have that for

1 purposes of cross examination?

2 MS. DAVIES: Your Honor, may the
3 record reflect that I am tendering a copy of
4 Officer McCoy's supplement to defense counsel
5 for his inspection.

6 THE COURT: It will so reflect.

7 BY MR. STAFFORD:

8 Q. Would you tell the jury basically the
9 purpose of the offense report is to help you
10 refresh your memory later down the road; is that
11 not true?

12 A. The offense report is to reflect all
13 the facts that we found.

14 Q. And due to the fact that you make many
15 calls and many things happen, this often helps
16 you refresh your memory as to what you found and
17 what you saw and who you talked to; does it not?

18 A. Yes.

19 Q. This is entered into a computer over
20 at the Houston Police Department; is it not?

21 A. Yes, sir.

22 Q. That is made available to the District
23 Attorney's Office; is it not?

24 A. Yes, sir.

25 Q. It's not available to the defense; is

1 it?

2 A. You are looking at it.

3 Q. Other than now.

4 Could you tell the members of the jury
5 that when you arrived on Keith Street, as far as
6 the driveway is concerned, assuming this is
7 Keith?

8 A. Could you move that out a little?

9 Q. Sure. I am being rude to you. Have
10 you used this diagram at all before testifying?

11 A. No.

12 Q. Have you ever seen it?

13 A. --.

14 Q. Let me get some photographs, then.

15 MR. STAFFORD: May I approach the
16 witness, judge.

17 THE COURT: Yes, sir.

18 BY MR. STAFFORD:

19 Q. Let me show you what has been marked
20 as State's Exhibit No. 6 and State's exhibit No.
21 5. That basically represents the Allen's house;
22 does it not?

23 A. Yes, sir.

24 Q. And the debris that you are talking
25 about is this little small amount of debris that

1 is over here on the side of the sidewalk?

2 A. Yes, sir.

3 Q. There was no debris out in front of
4 the house, as you recall, when you drove up that
5 day?

6 A. Not out in the very front.

7 Q. And as reflected by State's Exhibit
8 No. 6, as you drove up, one could see a motor
9 vehicle in the driveway; couldn't they?

10 A. When I pulled into the driveway, yes,
11 sir.

12 Q. If you were walking down the street,
13 looking down the driveway, you could also
14 observe a vehicle if you were walking down the
15 street as well and happened to stop right here?

16 MS. DAVIES: Object to speculation.

17 BY MR. STAFFORD:

18 Q. Let me rephrase it this way. If you
19 were standing in the driveway at the foot of
20 this driveway back on Friday, the 13th, would
21 you have been able to see the vehicle?

22 A. Yes, sir, I could have seen it.

23 Q. If anybody had been walking down the
24 street, standing in the same position, if they
25 had 20/20 vision or good vision, there would

1 have been nothing in their way to keep them from
2 seeing the vehicle; would there?

3 A. Not at that point.

4 Q. Did you ever try the front door?

5 A. I didn't try to go in the front door,
6 no, sir.

7 Q. You did not?

8 A. I did not.

9 Q. Did you ever have an occasion to try
10 the front door?

11 A. Yes, I did.

12 Q. Was the door locked or unlocked?

13 A. The door was locked.

14 MR. STAFFORD: I have no other
15 questions.

16 THE COURT: Anything else?

17 REDIRECT EXAMINATION

18 BY MS. DAVIES:

19 Q. Officer Rogers, are you aware of the
20 fact that the D. A.'s office in Harris County
21 pretty much has an open file policy and in fact
22 those offense reports are made available to the
23 defense prior to trial?

24 A. Yes, ma'am.

25 MS. DAVIES: Pass the witness.

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RECROSS EXAMINATION

BY MR. STAFFORD:

Q. I don't get to take them home with me
and read them; do I?

A. I don't know, sir.

MR. STAFFORD: Nothing further.

THE COURT: Anything else? You may
step down.

Call your next.

MS. DAVIES: State calls Jim Bolding.

Did we ask the court whether Officer
Rogers can be excused?

THE COURT: Do you have any objection
to this officer being excused?

MR. STAFFORD: No.

THE COURT: You may be excused.

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JAMES BOLDING

was called as a witness by the State and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. DAVIES:

Q. Could you, please, introduce yourself to the jury?

A. My name is James Bolding. I work at the police crime laboratory.

Q. What is your position at the crime laboratory?

A. I am the supervisor of the serology section in the Houston Police Department crime lab.

Q. Explain to us what the serology section does.

A. Serology is the analysis of body fluids. In the Houston Police Department, it is the analysis of body fluids that may be related or found in potential crime scenes.

Q. Have you had any special education or training for this position?

A. Yes, ma'am, I do.

Q. Would you describe for us your educational and your professional experience

1 background?

2 A. Yes, ma'am. I have a bachelor's
3 degree and a master's degree in biology and
4 biochemistry, both from Texas Southern
5 University. I also have credits in the Ph.D.
6 degree in biochemistry from the University of
7 Texas. I have undergone extensive training in
8 forensic science and forensic serology at the
9 Houston Police Department laboratory, at the FBI
10 laboratory in Quantico, Virginia, also at the
11 Serology Research Institute which is in
12 Emeryville, California. Also I have undergone
13 training at the Alopac Company that was in
14 Atlanta, Georgia.

15 Q. Mr. Bolding, how long have you been
16 with the Houston Police Department?

17 A. I'm coming up on my fourteenth year in
18 the Houston Police Department.

19 Q. How long have you been in charge of
20 the serology laboratory?

21 A. Approximately twelve years.

22 Q. For the most part, is your work done
23 in the laboratory, or do you actually go out to
24 the scene sometime?

25 A. From time to time, we go to crime

1 scenes also, yes.

2 Q. Do you go to crime scenes everytime
3 there is a murder case?

4 A. No, ma'am, we don't.

5 Q. What determines whether or not you are
6 called out of your laboratory to a crime scene,
7 if you can tell us?

8 A. Right. From time to time, crime
9 scenes that are specifically enigmatic, they are
10 complicated, or there may be multiple homicides
11 or whenever there is some difficulty that a
12 homicide sergeant or a supervisor sees at a
13 crime scene will call out the crime lab and the
14 photo lab and the laboratory for latent prints.

15 Q. Were you working on Friday, September
16 13, 1991?

17 A. Yes, ma'am, I was.

18 Q. Were you called out to a crime scene
19 on that day?

20 A. Yes, ma'am, I was.

21 Q. Do you recall going to 624 Keith?

22 A. I do.

23 Q. Do you recall what time of day it was
24 that you were called out there?

25 A. I don't recall specifically what time

1 of day it was.

2 Q. Did you spend a good portion of your
3 day out there, Mr. Bolding?

4 A. Yes, ma'am, I did.

5 Q. Do you recall whether it was morning?

6 A. I believe it was late morning.

7 Q. When you go to a crime scene, is there
8 any particular type of evidence that you focus
9 on when you go to the scene?

10 A. Yes, ma'am.

11 Q. What is that?

12 A. I specifically am interested in
13 evidence that may implicate one or several
14 persons that have left that crime scene. In
15 other words, I am primarily focusing on evidence
16 that will earn us a suspect.

17 Q. Now, when you arrived at 624 Keith,
18 were there other members of the Houston Police
19 Department on the scene?

20 A. Yes, ma'am.

21 Q. Were there other -- well, for
22 instance, what about fingerprints? Do you deal
23 with fingerprints?

24 A. No, ma'am, I do not.

25 Q. Was there someone there who has that

1 area of specialization?

2 A. Yes, ma'am, as I recall, there was.

3 Q. What about photographs, are you
4 responsible for taking photographs?

5 A. No, ma'am, I am not.

6 Q. Do you recall whether there was
7 someone there taking pictures?

8 A. Yes, ma'am, I do.

9 Q. Do you remember who that was?

10 A. Yes, ma'am. I think I remember that
11 Officer Jordan was in charge of taking pictures
12 on that day.

13 Q. Is that what we refer to as a crime
14 scene unit?

15 A. Yes, ma'am.

16 Q. What about homicide detectives, were
17 there any homicide detectives on the scene?

18 A. Yes, ma'am.

19 Q. So, as you arrived, apparently there
20 were others already there?

21 A. That is correct.

22 Q. At the point that you arrived, do you
23 know whether the bodies of Charles and Brad
24 Allen had been moved?

25 A. They were in the process, at the time

1 that we arrived they were in the process of
2 being removed from the premises.

3 Q. So your investigation focused not on
4 the bodies of the two men; is that correct?

5 A. That is correct.

6 Q. Can you describe for the jury what
7 your actions were when you first arrived at 624
8 Keith?

9 A. My actions are, first of all, to get
10 an overall, general layout of the premises, that
11 is, to find out if indeed the bodies are still
12 there and where they are located and to peruse
13 any of the rooms that may have physical evidence
14 that can be moved. This is what I did on that
15 day.

16 Q. So, did you actually determine the
17 location of the bodies and view the evidence
18 initially?

19 A. That is correct.

20 Q. And during the course of your
21 investigation there, did you actually recover
22 any evidence and take it from the scene?

23 A. Yes, ma'am, I did.

24 Q. In a minute we will go over the
25 details of what you took from the scene. Can

1 you tell us now what your purpose is in taking
2 evidence from that scene and taking it back to
3 your laboratory?

4 A. Well, the purpose is to preserve any
5 physical evidence that may be found at the crime
6 scene but also it is to unearth a possible
7 suspect or a possible witness that has left that
8 crime scene and any possible evidence of
9 tampering with the crime scene.

10 Q. As you walked through the scene there
11 at 624 Keith, as far as any evidence that
12 involves blood or bodily fluids, did anything in
13 particular catch your attention?

14 A. Yes, there were in the kitchen several
15 drops of blood that were likely not to have come
16 from the decedents in this case.

17 Q. They were likely to have come or not
18 to have come?

19 A. Not to have come.

20 Q. All right.

21 A. From the deceaseds in this case.

22 Q. Why did you reach that conclusion?

23 A. Because they were, in essence, 90
24 degree droplets from some object that was wet
25 and bleeding or from an individual that was

1 bleeding. And the individuals in this case were
2 not -- were disassociated from that kitchen
3 area.

4 Q. What did you observe -- let's back up
5 first. When you say 90 degree droplets. Can
6 you explain that to me a little bit in laymen's
7 terms what is it that you mean?

8 A. Right. If you were to hold a droplet
9 of liquid above the floor at a 90 degree angle
10 and drop it onto the floor, it would make a
11 concentric circle. That is what is considered
12 to be a 90 degree droplet.

13 Q. Can you explain to us why you reached
14 the conclusion that the two men, the two dead
15 men were not associated with those droplets that
16 you saw in the kitchen?

17 A. Because, again, they would have been
18 bleeding so very profusely that there would have
19 been much more blood in that area. There was
20 also footprints in that area that indicated that
21 whoever was there was standing in the positions
22 that were associated with that 90 degree
23 droplets. I did not see the same kind of blood
24 pattern, or the individuals as I understood
25 would have had to have blood on their feet at

1 the time.

2 Q. Because of your observation of these
3 droplets of blood, did you take any evidence
4 from that kitchen area?

5 A. Yes, ma'am, I did.

6 Q. Can you tell the jury what that was?

7 A. I took, from the kitchen I took blood
8 droplets from the kitchen drawer, blood droplets
9 from the kitchen floor and blood droplets from a
10 pack of kitchen utensils that was inside of the
11 drawer. I also took in that kitchen a tape lift
12 of a footprint.

13 Q. When you say a tape lift of a
14 footprint, now I understood that you were
15 looking not for fingerprints. Do you deal with
16 footprints? Or why did you take that lift?

17 A. It was to see if indeed the blood type
18 of the footprint was the same blood type as the
19 droplets.

20 Q. The sample and the lift that you took
21 were to determine the type of blood?

22 A. That is correct.

23 Q. How do you go about taking a sample
24 from a blood droplet? You described you took
25 one from the drawer, the floor and from

1 something inside the drawer. How do you do
2 that?

3 A. We take a scalpel blade and an
4 uncontaminated sheet of bond paper and
5 physically scrape any blood that is there onto
6 the bond paper. The alternative to that is to
7 take a swab, a cheesecloth or a cotton swab,
8 moisten it with either saline water and lift it
9 with the small amount of the saline water on the
10 swab.

11 Q. Is that what you did in this instance?

12 A. Yes, ma'am.

13 MS. DAVIES: Your Honor, if I may have
14 just a moment. And I have number of photographs
15 here that I want to mark for Mr. Bolding. Have
16 not been pre-marked.

17 Q. Let me show you some photographs that
18 I have marked for identification purposes as
19 State's Exhibits 13 through 23. Would you look
20 through those and tell me whether those
21 accurately depict the kitchen and breakfast room
22 area as it appeared that morning at 624 Keith?

23 A. Yes, ma'am, it does.

24 Q. Do they accurately depict the scene?

25 A. They do.

1 Q. I will also draw your attention to
2 what is already in evidence as State's Exhibit
3 9. Does that also accurately depict the scene
4 in the kitchen area that morning?

5 A. Yes, ma'am, it does.

6 MS. DAVIES: Your Honor, I am offering
7 State's 13 through 23 after tendering them to
8 defense counsel for his inspection.

9 MR. STAFFORD: Thirteen through
10 twenty-three, we have no objection.

11 THE COURT: They are admitted.

12 BY MS. DAVIES:

13 Q. Can you tell me, Mr. Bolding,
14 referring to State's Exhibits -- would you look
15 through these and select those photographs that
16 depict that 90 degree drop or droplet that you
17 described?

18 A. These are the photographs that best
19 depict the 90 degree falling of blood to the
20 floor.

21 Q. Okay. You have selected State's
22 Exhibits 16, 17, 18, 20, 21 and 22.

23 Could I ask you to step down here in
24 front of the jury, if you would.

25 MS. DAVIES: Your Honor, could I ask

1 that these be passed to the jury first so that
2 they might look at them and pass them on to the
3 next person before we begin talking about them?

4 THE COURT: You may.

5 BY MS. DAVIES:

6 Q. Take your seat. Give the jury a
7 chance to look at those.

8 (Defense Exhibits 1 through 4
9 marked).

10 BY MS. DAVIES:

11 Q. Mr. Bolding, let's look first at
12 State's Exhibit 20. And you had indicated that
13 there were drops of blood on the floor?

14 A. Yes.

15 Q. Now, are those drops of blood
16 consistent with the kind of wounds that you had
17 seen that the two deceased had sustained?

18 A. No, they are not.

19 Q. Were they consistent with someone who
20 had cut their hand?

21 A. Yes.

22 Q. And just dripping a small amount of
23 blood?

24 A. That would be one of the
25 consistencies, yes, ma'am.

1 Q. Now, the fact that those droplets of
2 blood such as are shown in State's Exhibit 20,
3 were they perfectly round?

4 A. They were as round as blood droplets
5 can be when hitting a rather hard surface, yes.

6 Q. While we are looking at these, let's
7 also look at State's Exhibit 18, which appears
8 to be an open drawer. Was there a round drop of
9 blood there also?

10 A. Yes, there is.

11 Q. Can you point out? You have pointed
12 both inside the drawer on the wood and on a --
13 what is this?

14 A. It's a package of something to hold
15 kitchen utensils to the wall. There was a
16 droplet there.

17 Q. As well as droplets on the floor?

18 A. That is correct.

19 Q. All right. Now, the fact that these
20 droplets you saw were close to being round, what
21 significance does that have?

22 A. It indicated that there was still
23 movement, that the person who left the drops was
24 standing or was not moving. That person was
25 above the places where the droplets were being

1 left.

2 Q. Let me be sure I understand you.
3 When you say a person was standing still or?

4 A. Or moving very, very slowly.

5 Q. If a person was bleeding from a wound
6 and waving their arms around at the same time,
7 moving, would you expect to see a nearly round
8 droplet such as you got on the floor here?

9 A. That would be inconsistent with this
10 particular pattern.

11 Q. Inconsistent?

12 A. That is correct.

13 Q. So, at best, a person who left a blood
14 droplet such as this would be moving slowly?

15 A. Extremely slowly, yes. It's
16 consistent with having blood form on an
17 extremity and allowing that blood drop to fall
18 to the floor with very little movement in any
19 direction.

20 Q. Is that true of all of the blood drops
21 that you see on these photographs?

22 A. That is correct.

23 Q. Is that consistent with what you saw
24 at the scene?

25 A. Yes, ma'am, it is.

1 Q. Now, let's look at State's Exhibit 22,
2 21 and 22. Can you explain to the jury what
3 those show?

4 A. It shows that there is a small amount
5 of blood that has fallen onto a vertical surface
6 and it has trickled down on that vertical
7 surface, but there is also a droplet that never
8 touched that vertical surface.

9 Q. Which is that? You say a droplet
10 never touched the surface?

11 A. This particular drop did not come from
12 this surface. It was left, and the person moved
13 closer to that vertical surface and dropped
14 another drop of blood.

15 Q. So, in other words, you are saying you
16 see blood slide down the cabinet?

17 A. Right.

18 Q. Is what you are calling the vertical
19 surface?

20 A. Right.

21 Q. And then hit the floor?

22 A. Right. The blood here on the cabinet,
23 it's a thick drop. It came down the cabinet,
24 but the drop next to it was a drop that formed
25 independently of the one on the cabinet.

1 Q. Hit the floor directly without hitting
2 the cabinet?

3 A. That is correct.

4 Q. And what is the location in the
5 kitchen where these two photographs were taken?

6 A. They were by the dishwasher and the
7 sink.

8 Q. By the kitchen sink.

9 Can you point out for us in these
10 photographs what the exact locations were where
11 you took the samples of blood in the kitchen?

12 A. I took as much blood as I possibly
13 could from all of the 90 degree droplets in the
14 middle of the floor. I also took samples from
15 the drawer here, and I also took this particular
16 kitchen utility package.

17 Q. Let me be sure I am understanding.
18 You took a sample from the drop that is shown
19 inside the drawer depicted in State's Exhibit 18?

20 A. That is correct.

21 Q. As well as taking this hardware
22 container?

23 A. That is correct.

24 Q. That is shown in State's Exhibit 18?

25 A. That is correct.

1 Q. Now, you said you took samples from
2 all the drops that you could on the kitchen
3 floor. Do you take an individual sample from
4 each droplet and keep them separate, or were you
5 taking swabs and combining those?

6 A. I took droplets that were separate and
7 kept them separate as best as I could. However,
8 there were several droplets here that I combined
9 because of the proximity they were, within one
10 or two or three inches of themselves, indicating
11 that they may have been from the same bleeding
12 source.

13 Q. If you combine those samples like that
14 and you get back to the laboratory with those,
15 if it had been two different types of blood,
16 would your analysis reveal that?

17 A. It would.

18 Q. Did that happen in this instance?

19 A. No, ma'am, it did not.

20 Q. So you took samples from the drawer
21 and from the kitchen floor. Were there any
22 other places that you actually took blood
23 samples in the kitchen area?

24 A. I took something called a tape lift of
25 an area of a footprint. That is, I took a piece

1 of tape and pressed it onto a footprint and
2 adhesive tape lifted some of the footprint and
3 with the fibrous debris that was associated
4 with that footprint.

5 Q. You may have a seat.

6 When you are working a case like this
7 and you take evidence to your laboratory, do you
8 have any system in your laboratory for assigning
9 an identifier to the evidence?

10 A. Yes, ma'am, I do.

11 Q. Describe for the jury what you do in
12 that regard.

13 A. There is a unique laboratory number
14 that always appears on any of the evidence that
15 is taken, and that laboratory number appears
16 only on evidence that is associated with this
17 particular case.

18 Q. So, when you went back to your
19 laboratory, did you -- or at what point did you
20 assign a number to any evidence for this case?

21 A. When the evidence was recovered and
22 taken back to the laboratory.

23 Q. And what number did you assign to the
24 evidence in this case?

25 A. L91-9937.

1 Q. L91-9937?

2 A. That is correct.

3 Q. Is that correct?

4 A. That is correct.

5 Q. So, do you actually put that number on
6 the evidence that you are going to analyze for
7 identifying purposes?

8 A. That is correct.

9 Q. Let me show you what I have marked for
10 identification purposes as State's Exhibits 26
11 and 27. Do you recognize those items?

12 A. Yes, ma'am, I do.

13 Q. How is it that you are able to
14 recognize the contents of the envelopes that I
15 have marked State's Exhibits 26 and 27?

16 A. They have the lab number L91-9937 and
17 my initials on both packets of the evidence.

18 Q. Did you put the evidence in these
19 packets then when you returned to the laboratory
20 or at the scene?

21 A. Yes, ma'am, I put them into the
22 packets at the crime scene.

23 Q. And then actually put your initials
24 and the laboratory number?

25 A. Yes, ma'am.

1 Q. Can you tell us what it is that you
2 put in the packet that has been marked State's
3 Exhibit 26?

4 A. This is the holder that was in the
5 kitchen drawer that had the blood droplet on it
6 on the date that I collected it.

7 Q. All right. I see, in addition to that
8 little holder, it appears to be a smaller
9 packet. Would you open that for me, Mr.
10 Bolding, and tell us what is contained in
11 State's Exhibit 26?

12 A. This is also a glossy paper which is a
13 wax kind of paper container that has the blood
14 from the kitchen drawer in it.

15 Q. Is that the sample that you took there
16 at the scene?

17 A. Yes, ma'am.

18 Q. So you put both of those items in this
19 one envelope State's Exhibit 26?

20 A. That is correct.

21 Q. And can you tell us what is contained
22 in the envelope marked State's Exhibit 27?

23 A. The envelope marked State's 27
24 contains blood from outside of the kitchen
25 drawer, blood from kitchen floor, and another

1 sample of blood from the kitchen floor.

2 Q. So there are three smaller envelopes
3 containing those samples?

4 A. That is correct.

5 Q. Are those the samples that you
6 actually recovered at the scene?

7 A. Yes, ma'am, they are.

8 Q. And put in this larger envelope,
9 State's Exhibit 27?

10 A. That is correct.

11 MS. DAVIES: Your Honor, at this time
12 I tender State's Exhibits 26 and 27 to defense
13 counsel for his inspection. Offer them into
14 evidence.

15 MR. STAFFORD: No objection.

16 THE COURT: State's 26 and 27 are
17 admitted.

18 BY MS. DAVIES:

19 Q. Mr. Bolding, when I look at the --
20 contained in State's Exhibit 26, it looks like
21 it's a floor guide. Is this the object that
22 you pointed out to us in the drawer that you
23 took the blood sample from?

24 A. Yes, ma'am, it is.

25 Q. I believe it's actually depicted in

1 State's Exhibit 18?

2 A. That is correct, it is.

3 Q. Can't help but notice that when I look
4 at the actual package and compare it to the
5 photograph, State's Exhibit 18, there doesn't
6 appear to be nearly as much blood on this
7 package in the flesh as there appears to be in
8 the photograph.

9 A. That is correct.

10 Q. Can you explain that to us?

11 A. Yes, ma'am, I removed it.

12 Q. You removed it?

13 A. Yes, ma'am.

14 Q. The blood from the actual package?

15 A. That is correct.

16 Q. How did that happen?

17 A. In order to do the analysis, it is
18 necessary that I take the blood off of the
19 package and put them into tubes or into trays or
20 other reaction vessels to perform the analysis.

21 Q. Is that what you did in this case?

22 A. Yes, ma'am.

23 Q. What was your purpose in removing
24 that?

25 A. We wanted to find out, first of all,

1 whether or not the blood was blood, whether or
2 not the blood was human, and, if possible, to
3 obtain a type and other comprehensive tests of
4 character or genetic identification on the
5 blood.

6 Q. The items that I have shown you there
7 in the kitchen samples from the drawer, the
8 floor and that packaging, when you took those
9 back to the laboratory, did you determine the
10 blood type on those items?

11 A. Yes, ma'am, I did.

12 Q. Can you tell us what the blood
13 droplets from the drawer, what type blood those
14 were?

15 A. The blood droplets from the drawer
16 were type A.

17 Q. And did you examine the blood droplets
18 from the floor, the samples that you had taken
19 back to the lab?

20 A. Yes, ma'am, I did.

21 Q. What type blood were those?

22 A. The blood droplets from the kitchen
23 floor were also type A.

24 Q. What about the droplets on that little
25 hardware package contained in State's Exhibit

1 No. 26?

2 A. That was also type A.

3 Q. You indicated that you did a lift of
4 one of the bloody footprints on the floor there
5 in the kitchen. Did you determine what blood
6 type that was?

7 A. That was retained without examination
8 as to type.

9 Q. You did not determine what type blood
10 that was?

11 A. That is correct.

12 Q. Now, I have asked you about the blood
13 type. When you do this examination, are you
14 determining first whether it's human blood?

15 A. Exactly. There are a set of steps
16 that go or follow in order to complete the
17 analysis. The first step is to determine
18 whether or not the sample is indeed blood. The
19 next step is to determine whether or not it is
20 from a human being. And then the third and
21 fourth steps are to determine genetic content,
22 type of blood and other physical characteristics
23 that may point to one or several individuals.

24 Q. Did you go through all those steps in
25 this instance?

1 A. That is correct.

2 Q. Now, you say that you determined that
3 those samples were type A human blood that you
4 recovered in the kitchen. At some point, did
5 you get samples from Bradley Allen or from
6 Charles Allen to determine what their blood type
7 was?

8 A. Yes, ma'am, I did.

9 Q. Can you tell the jury what you
10 received in that regard?

11 A. I received a sample of blood from
12 Charles Allen.

13 Q. Was that a sample from the morgue?

14 A. That is correct.

15 Q. Did you determine what Charles Allen's
16 blood type was?

17 A. Yes.

18 Q. What was his blood type?

19 A. His blood type was type O.

20 THE COURT: Ladies and gentlemen, we
21 are going to take a short break. How many
22 smokers are there? Three, four, five, whatever.
23 We are going to put you all back in the jury
24 room. And we have a little terrace; we will
25 bring you back out for the smokers so that you

1 can get away from that jury room, and the others
2 don't have to be associated with it. Some of
3 you are going to be wondering how long we are
4 going to be working tonight. You have
5 two-year-old twins at home. Are they in day
6 care or somebody else is taking care of them?

7 THE JUROR: Somebody else.

8 THE COURT: We are going to be working
9 until at least six this evening to try to get
10 through some of these witnesses. If anybody
11 wants to go use the phones right now you may do
12 so on this break. If you would, just follow the
13 bailiff down the hall. We will be back with you
14 in a few minutes.

15 (Recess; after which, the jury returns
16 to the courtroom).

17 THE COURT: Proceed, please.

18 BY MS. DAVIES:

19 Q. Mr. Bolding, I believe, as we broke,
20 do I remember correctly that you had just
21 indicated that the blood sample from the morgue
22 indicated that Charles Allen's blood was type O?

23 A. That is correct.

24 MS. DAVIES: Your Honor, at this time
25 I have marked for identification purposes as

1 State's Exhibit 28 some business records which
2 have been on file with the court since June 22,
3 1992, and notice was given to defense counsel in
4 accordance with the rules of evidence. I am
5 offering these records from the Gulf Coast
6 Regional Blood Center into evidence at this
7 time.

8 MR. STAFFORD: No objection.

9 THE COURT: State's Exhibit 28 is
10 admitted.

11 MS. DAVIES: May I read from a portion
12 of these records for the jury?

13 THE COURT: Yes, ma'am.

14 MS. DAVIES: These are business
15 records kept in the regular course of business
16 of the Gulf Coast Regional Blood Center here in
17 Houston accompanied by an affidavit from the
18 custodian of the records there that indicate
19 that the blood type of Bradley Dean Allen is
20 type O.

21 Q. Mr. Bolding, you have described for us
22 your analysis of evidence from the kitchen. Did
23 you recover evidence from any other portion of
24 the house?

25 A. Yes, ma'am, I did.

1 Q. The front bedroom, the bedroom on the
2 front of the house?

3 A. Yes, ma'am.

4 Q. Did you recover any evidence from that
5 room?

6 A. Yes, ma'am, I did.

7 Q. Can you tell the jury what that was?

8 A. Yes, ma'am. I recovered one knife. I
9 took the bedding off the bed. I took a sample
10 of blood from a love seat that was located in
11 that front bedroom.

12 Q. Let me call your attention, Mr.
13 Bolding, to be sure we are talking about the
14 same room. We have this diagram here, State's
15 Exhibit 10. Are you referring, when we say the
16 front room, are you referring to this room on
17 the front of the house that we have labeled on
18 State's Exhibit 10 as Brad's room?

19 A. That is correct.

20 Q. Let me show you what has been marked
21 for identification as State's Exhibits 24 and
22 25. Can you tell us what those are?

23 A. This is a carpet sample from the
24 bedroom. And this is a swatch of cloth also
25 from that bedroom, a love seat in that bedroom.

1 Q. Why did you choose those particular
2 items to take as evidence?

3 A. They appeared to be droplets that were
4 away from the large patterns of blood that could
5 possibly be from the decedent that was found in
6 that bedroom.

7 Q. All right. So, looking at this
8 diagram, were the samples, State's Exhibit 25,
9 which I believe you indicated was from a love
10 seat, and State's Exhibit 24, carpet, were those
11 taken from this area by the door into Brad's room?

12 A. No, they were not.

13 Q. What area of the room were they taken
14 from?

15 A. They were taken from near the foot of
16 the bed toward the front of the house.

17 Q. We have got the bed designated here.
18 Would it be fair to say between where the words
19 "Brad's room" is written and the end of the bed
20 in the diagram?

21 A. That is correct.

22 Q. Did you do any testing on these items,
23 State's Exhibits 24 and 25?

24 A. Yes, ma'am, I did.

25 MS. DAVIES: Your Honor, at this time

1 I am tendering State's 24 and 25 to defense
2 counsel and offer them into evidence.

3 MR. STAFFORD: No objection.

4 THE COURT: State's Exhibits 24 and 25
5 are admitted.

6 BY MS. DAVIES:

7 Q. Were you able to determine whether
8 there was blood on State's Exhibit 24?

9 A. 24 is the love seat? Yes, ma'am, I
10 was.

11 THE COURT: I believe 24 is the carpet
12 sample.

13 BY MS. DAVIES:

14 Q. I'm sorry. State's Exhibit No. 24.

15 A. Yes, ma'am, I did.

16 Q. By the way, on these items, did you
17 also use that unique laboratory number to
18 identify these items?

19 A. I did.

20 Q. L91-9937?

21 A. That's it.

22 Q. When you examined State's Exhibit 24,
23 the carpet sample, were you able to determine
24 whether there was human blood on that?

25 A. Yes, ma'am, I did determine there was

1 human blood on that sample.

2 Q. Did you determine the type of the
3 blood?

4 A. The type of blood was inconclusive,
5 that is, I could not determine what type that
6 was on that sample.

7 Q. Can you explain to the jury why it is
8 that sometimes you cannot determine the type of
9 blood when you examine it?

10 A. Sometimes the environment of the room
11 or the facility may interfere with the test.
12 Strong detergents or acids or bases or strong
13 oxidizing substances in chemicals have an
14 influence on whether or not testing is possible
15 in any certain type of blood.

16 Q. This was a relatively new house and
17 new carpet. Can you explain to us what there
18 might have been that would interfere with your
19 test in this instance?

20 A. Yes. If the carpet had been treated
21 with stain preventors which may interfere with
22 the testing of the blood, that is a possibility
23 as to why I got an inconclusive as to type.

24 Q. Were you able to tell that it was
25 human blood, though?

1 A. Yes, I was.

2 Q. Now, as to State's Exhibit 24. This
3 sample. I notice there is a little hole.

4 THE COURT: Back up. You referred to
5 24 a minute ago when you started talking. That
6 is what we were just talking about.

7 MS. DAVIES: I'm sorry. I apologize.

8 Q. State's Exhibit 25. The sample from
9 the love seat that you identified. I notice
10 there is a little hole in the middle of that.
11 Can you explain to us why there is a hole in the
12 middle of that fabric sample?

13 A. I physically removed that sample to
14 put into my test tubes and to put into chemicals
15 to react whether or not it was human and whether
16 or not it was blood and whether or not it had
17 specific type.

18 Q. You cut a little piece out of the
19 center of this?

20 A. I did.

21 Q. Did you determine whether there was
22 human blood on this fabric sample?

23 A. I did, yes, ma'am.

24 Q. What was your opinion?

25 A. The conclusion was that it was human

1 blood.

2 Q. Were you able to determine the type
3 from that?

4 A. Yes, I was.

5 Q. What type blood was that?

6 A. It was type A also.

7 Q. Now, Mr. Bolding, did you take any
8 blood samples in the area just inside the door
9 of Brad's room?

10 A. No, ma'am, I did not.

11 Q. Any particular reason why not?

12 A. In my opinion, the blood samples were
13 likely to have come from the decedent that was
14 found in that room.

15 Q. And you were looking for what?
16 Something other than a sample from the decedent?

17 A. Right. I was looking for samples that
18 could possibly have come from an assailant that
19 had been in that room.

20 Q. Did you recover any other evidence
21 from Brad's room?

22 A. No, ma'am, I think that is all.

23 Q. Was there a knife on the bed in Brad's
24 room?

25 A. Yes, ma'am, I did recover that knife.

1 Q. You did recover that. Let me show you
2 the knife that is contained in an envelope
3 marked State's Exhibit 29. Can you tell us
4 whether you recognize that?

5 A. Yes, ma'am, I can.

6 Q. Where did you first see that knife?

7 A. That knife was in the bedroom, in the
8 front bedroom of the home at 624 Keith.

9 Q. Where was it in that room?

10 A. It was on the bed.

11 Q. Let me show you a photograph that I
12 have marked for identification purposes as
13 State's 29-A. Does that photograph accurately
14 depict the location where you recovered the
15 knife that you have just identified?

16 A. Yes, it does.

17 Q. When you first first saw this knife,
18 was there anything on it, anything visible to
19 the human eye?

20 A. Yes, ma'am, it was.

21 Q. What was that?

22 A. The substance was reddish to brown
23 substance that appeared in my opinion to be
24 blood.

25 Q. Have you made many crime scenes?

1 A. Yes, ma'am, I have.

2 Q. You recognize what blood looks like?

3 A. Yes, ma'am, I do.

4 Q. In crime scenes as well as in the
5 laboratory. Was it your opinion that was blood
6 on that knife?

7 A. It was my opinion, as a cursory look,
8 that that was blood.

9 Q. Now, did you actually test this knife
10 for blood?

11 A. Yes, ma'am, I did.

12 Q. What did you determine?

13 A. I determined that there was human
14 blood on that knife.

15 Q. We are referring to State's Exhibit 29?

16 A. Yes, ma'am.

17 Q. Did you type the blood?

18 A. Yes, ma'am, I did.

19 Q. What type blood was on State's Exhibit
20 29?

21 A. I did not get one blood type. As a
22 result of not getting one type, I said that the
23 type was inconclusive.

24 Q. Explain to us what you mean when you
25 got more than one blood type. For example, if

1 somebody who is bleeding is handling a knife or
2 two different people's blood gets onto a knife,
3 what type of result would you expect in the
4 laboratory?

5 A. I would expect to find that there was
6 multiple blood types on that knife. However, I
7 did not know whether or not two people were
8 bleeding as a result. Whenever I see multiple
9 blood types on a knife, we can not say that it
10 belongs to one human being, and we call it
11 inconclusive.

12 Q. Now, as I observe the knife, State's
13 Exhibit 29, here in the courtroom today, and you
14 have identified 29-A as a photograph depicting
15 the knife as you recovered it, they don't look
16 the same in terms of coloration. Can you
17 explain to us why there would have been a change
18 in the appearance of the knife?

19 A. Right. The knife was submitted to the
20 latent print laboratory for examination for
21 prints, and they use different chemicals to
22 highlight or to bring out prints on the knife.
23 And just so happens that the chemicals, some of
24 the chemicals that they use also color or
25 discolor blood and change it from the

1 reddish-brown color to bluish or black color.

2 Q. Now, you actually took the knife,
3 State's Exhibit 29, from the scene?

4 A. That is correct.

5 Q. And before it was processed for
6 prints, you did some testing for blood; am I
7 understanding correctly?

8 A. That is correct.

9 Q. As you are handling the knife in
10 processing it for the blood, do you take any
11 steps to preserve any possible prints that might
12 have been on that knife?

13 A. Yes, I do.

14 Q. What is it that you do?

15 A. I always wear gloves against the
16 spread of disease, but I also wear them so that
17 my prints don't end up on the knife, and I
18 handle very carefully the handle of the knife
19 and any other area that may contain a print that
20 could identify a human being.

21 Q. And State's Exhibit 29-A, is that the
22 location of the knife as you picked it up?

23 A. That is correct.

24 Q. And that is on the bed?

25 A. That is correct.

1 Q. In Brad's room?

2 A. Yes, ma'am.

3 MS. DAVIES: Tendering State's 29 and
4 29-A to defense counsel, offer those into
5 evidence at this time.

6 MR. STAFFORD: I have no objection.

7 THE COURT: State's 29 and 29-A are
8 admitted.

9 MS. DAVIES: May I ask that these two
10 items be passed to the jury at this time?

11 THE COURT: They may be.

12 BY MS. DAVIES:

13 Q. Let me show you what I have marked for
14 identification purposes as State's Exhibit 32
15 and a photograph marked 32-A. Do you recognize
16 those items?

17 A. Yes, ma'am.

18 Q. Can you tell us did you recover the
19 contents of the envelope marked 32?

20 A. No, ma'am, I did not.

21 Q. Do you recognize those from the scene?

22 A. Yes, ma'am, I do.

23 Q. And were they in the location as shown
24 in 32-A?

25 A. Yes, ma'am, they were.

1 Q. So, did you do any testing at all on
2 the contents of State's Exhibit 32, the sunglasses?

3 A. No, ma'am, I did not.

4 Q. Did you recover any evidence in the
5 master bedroom, Charles' room?

6 A. Yes, ma'am, I did.

7 Q. Can you tell us what it is you recall
8 recovering in that room?

9 A. I recovered a black metal weight bar,
10 a threaded-head weight bar, the bedding from the
11 bed where the complainant was found, a section
12 of cardboard box. There was on the bedding,
13 found on the bed there was a ring and one tooth
14 that was recovered. There were also two knives
15 that were recovered in that room.

16 Q. Were the knives in the bed?

17 A. No, ma'am, they were not.

18 Q. Where were they?

19 A. They were on the floor.

20 Q. You mentioned a couple of weight bars?

21 A. Yes, ma'am.

22 Q. A difference in the way you described
23 them. What, a threaded weight bar?

24 A. That is correct.

25 Q. Where was it located?

1 A. It was on the floor near the knives.

2 Q. And the other weight bar, was it also
3 a threaded weight bar?

4 A. No, it was not.

5 Q. Where was it located?

6 A. As I recall, I recall it being on the
7 bed.

8 Q. Let me show you what we have marked
9 for identification purposes. Can you see these
10 items?

11 A. Yes.

12 Q. State's Exhibit 30. Do you recognize
13 that?

14 A. I do.

15 Q. What is that?

16 A. That is the black metal weight bar.

17 Q. And is that the one that was recovered
18 on the bed?

19 A. That is correct.

20 Q. The bed that Charles Allen's body was on?

21 A. That is correct.

22 Q. And State's Exhibit 31, do you
23 recognize that?

24 A. Yes, ma'am, I do.

25 Q. Where was that recovered?

1 A. That was on the floor next to the
2 knives in the master bedroom.

3 Q. Let me show you what I have marked for
4 identification purposes as State's Exhibit 33,
5 an envelope containing two knives.

6 A. Yes, ma'am.

7 Q. Do you recognize those two knives?

8 A. I do.

9 Q. Where did you first see those two
10 knives?

11 A. They were on the floor in the back
12 bedroom at the address 624 Keith.

13 Q. Let me show you these two photographs
14 30-A and 33-A. Are these accurate depictions of
15 the weight bar and the knives, threaded weight
16 bar, 31, and the knives, State's Exhibit 33?

17 A. They are.

18 Q. Do these photographs show where those
19 items were when you recovered them at the scene?

20 A. That is correct, they do.

21 MS. DAVIES: Your Honor, I am
22 tendering State's Exhibits 30, 31, 33, as well
23 as photographs 30-A and 33-A to defense counsel
24 for his inspection.

25 MR. STAFFORD: May I have a moment,

1 judge?

2 THE COURT: Yes, sir.

3 MS. DAVIES: Actually, to keep the
4 record straight, let me -- for the record, the
5 photograph which we have previously referred to
6 as 30-A I am going to mark as 31-A for the
7 record because that corresponds with the weight
8 bar 31.

9 Q. Is this the threaded weight bar where
10 you found it?

11 A. That is correct.

12 Q. I am referring to photograph 31-A.

13 A. That is correct.

14 MS. DAVIES: So my proffer, Your
15 Honor, is State's Exhibits 30, 31, 33, 31-A and
16 33-A. The A referring to the photographs.

17 MR. STAFFORD: No objection.

18 THE COURT: State's Exhibits 30, 31,
19 31-A, 33 and 33-A are admitted.

20 MS. DAVIES: Your Honor, I would ask
21 that photographs 31-A, 33-A and the knives 33 be
22 passed to the jury. Rather than passing them,
23 with the court's permission, I would like to
24 show State's Exhibit 30 and 31 to the jury.

25 THE COURT: All right. Start the

1 photographs and exhibits on the different rows.

2 BY MS. DAVIES:

3 Q. Mr. Bolding, these two knives that are
4 contained in State's Exhibit 33 that you
5 recovered from the floor in Charles' room, did
6 you test those for the presence of blood?

7 A. I did.

8 Q. What did you determine?

9 A. I determined that there was human
10 blood on both knives; however, the blood type
11 was inconclusive.

12 Q. Was that for similar reason as you
13 described on the other knife?

14 A. Yes. There was multiple blood types
15 found on the knives.

16 Q. Again, did you take care, as you
17 handled these knives, so that they could be
18 checked for fingerprints?

19 A. I did, yes, ma'am.

20 Q. In fact, after you processed the three
21 knives that you have described and all this
22 physical evidence, did you turn it over to the
23 fingerprint laboratory?

24 A. I did.

25 Q. These weight bars that are in

1 evidence, State's Exhibits 30 and 31, did you
2 examine these for any evidence?

3 A. Yes, ma'am, I did.

4 Q. Was there blood visible on either of
5 these items?

6 A. There was blood visible on both of
7 them, yes, ma'am.

8 Q. And as to State's Exhibit 30, the
9 straight bar, what did you determine when you
10 tested it?

11 A. There was human blood that was type O
12 found on that particular bar.

13 Q. Only type O?

14 A. That is correct.

15 Q. When you tested the threaded bar,
16 State's Exhibit 31, what did you determine?

17 A. I determined that human blood also was
18 present, and there was type blood O on that
19 weight bar also, the threaded bar.

20 Q. I call your attention to what we have
21 marked as State's Exhibit 34. I have marked the
22 plastic container. Can you tell us what is
23 contained in the plastic, State's Exhibit 34?

24 A. It is a window mini blind.

25 Q. Where was this in the house? Was it

1 on a window?

2 A. I don't recall seeing that at the
3 house.

4 Q. I am going to remark this exhibit.
5 Let me ask you about that in just a moment. Go
6 back to the house. I call your attention to --
7 State's Exhibit 34 was supposed to be on this
8 other item. I apologize. For the record, I am
9 going to take that off the mini blind. That is
10 not State's Exhibit 34. State's Exhibit 34
11 now. Can you tell me what is the contents of
12 that envelope?

13 A. This was a portion of a cardboard box
14 that was located in the master or the back
15 bedroom of that home.

16 Q. This bedroom that we have labeled
17 Charles' bedroom?

18 A. That is correct.

19 Q. Do you recall approximately where in
20 the bedroom that box was located?

21 A. It was sitting between the door and
22 the bed, the door leading to the hallway and the
23 bed.

24 Q. All right. What was your reason for
25 taking that -- was that the entire item there,

1 or did you just take a portion of the box?

2 A. I just took a portion of the box.

3 Q. Did you test that to determine what
4 type blood was on that?

5 A. Yes, ma'am, I did.

6 Q. What did you learn?

7 A. I learned that the blood type, that
8 this was human blood, but there was multiple
9 blood types, therefore, the type was
10 inconclusive as to the cardboard box.

11 Q. When you say it was between the bed
12 and the door -- let me get a picture so we can
13 be sure.

14 Let me show you -- does this
15 photograph show the location of the box?

16 A. Yes, ma'am, it does.

17 Q. All right. Let's mark that as 34-A.

18 Can you point out for us where the box
19 is, where you recovered this sample?

20 A. This is the box where I recovered the
21 sample.

22 Q. You are pointing to the lower
23 left-hand corner?

24 A. That is correct.

25 MS. DAVIES: I offer State's Exhibit

1 34 and 34-A after tendering them to defense
2 counsel.

3 MR. STAFFORD: No objection.

4 THE COURT: State's Exhibits 34 and
5 34-A are admitted.

6 BY MS. DAVIES:

7 Q. Is my finger pointing to the box that
8 you recovered this sample 34 from?

9 A. Yes, ma'am, it is.

10 Q. Is this right next to that bedroom door?

11 A. It is.

12 Q. Did you test the sample from the
13 cardboard box, State's Exhibit 34?

14 A. I did.

15 Q. And did you determine whether or not
16 there was human blood on that item?

17 A. I did determine that it was human
18 blood.

19 Q. What was your determination?

20 A. It was human blood but the type was
21 inconclusive.

22 Q. Can you explain to us why, I mean, was
23 this a matter of there being two kinds of blood
24 on there, or what would the reason have been on
25 this sample?

1 A. That was a possibility, the
2 possibility was that I got multiple blood
3 typings out of the samples there. There could
4 have been more than one type of blood there,
5 more than one person bleeding, or that the other
6 scenario is there could have been a contaminate
7 that caused me to get multiple blood types
8 there. In either event, I did not determine
9 that there was one blood type there, and I said
10 inconclusive at the time.

11 Q. When you say a contaminant, some
12 foreign matter that was on the box that would
13 affect your testing?

14 A. That is correct.

15 Q. I believe you said that you recovered
16 this bar, State's Exhibit 30, from Charles
17 Allen's bed?

18 A. That is correct.

19 Q. What else did you recover from the bed
20 other than the bedding, if anything?

21 A. There was a ring found on the bed.

22 Q. What condition was that ring in?

23 A. It was broken. It was not intact.

24 Q. Let me show you what we have marked
25 for identification as State's Exhibit 35. Do

1 you recognize that?

2 A. Yes, I do.

3 Q. What is that?

4 A. This is a ring that was collected by
5 myself from the bedding.

6 Q. In Charles Allen's room on the bed?

7 A. That is correct.

8 Q. Did I hear you say you also recovered
9 a tooth?

10 A. There was a tooth on the bedding also.

11 Q. Under the body?

12 A. The tooth and the ring were recovered
13 in the crime lab itself. So that the body --
14 the body may have been on top of it; however, it
15 would have been impossible for me to say.

16 Q. When you took the bedding to the
17 laboratory and examined it, you discovered
18 State's Exhibit 35 as well as a tooth?

19 A. That is correct.

20 MS. DAVIES: Tender State's Exhibit 35
21 to defense counsel and offer it into evidence.

22 MR. STAFFORD: No objection.

23 THE COURT: 35 is admitted.

24 MS. DAVIES: With the court's
25 permission, may I just show this to the jury?

1 THE COURT: You may.

2 BY MS. DAVIES:

3 Q. Mr. Bolding, other than looking for
4 blood, did you examine -- well, let me start
5 over. Did you examine the bedding for physical
6 evidence?

7 A. Yes, ma'am, I did.

8 Q. Did you find any significant evidence
9 other than the tooth and the ring that you just
10 described?

11 A. No, ma'am, I did not.

12 Q. What condition was the bedding in that
13 you took from Charles and from Brad Allen's bed?

14 A. They were both bloody, bloody items of
15 bedding.

16 Q. Did you actually do blood testing on
17 those items to determine the type of blood?

18 A. No, ma'am, I did not.

19 Q. Did that seem necessary to know whose
20 blood it was on those items?

21 A. It did not, in my opinion.

22 Q. At some point, were you also asked to
23 look at some evidence that was submitted to you
24 in this case but was not evidence that was
25 recovered from this scene at 624 Keith?

1 A. Yes, ma'am, I was.

2 MS. DAVIES: Your Honor, with the
3 court's permission, there will be subsequent
4 witnesses to identify these items, but rather
5 than have to recall Mr. Bolding, with the
6 court's permission I would like to get him to
7 identify and describe what he did in connection
8 with this evidence, and then we will connect it
9 up with the later witness.

10 MS. STAFFORD: Under rule 104 B, that
11 is permissible.

12 THE COURT: You have no objection?

13 MR. STAFFORD: No, not at this time.

14 BY MS. DAVIES:

15 Q. Let me show you an envelope which has
16 been marked as State's Exhibit A-1. I am going
17 to identify these things beginning with the
18 letter A so that we don't get them confused with
19 the scene at 624 Keith. All right.

20 Can you tell me what the large brown
21 envelope that has been marked State's Exhibit
22 A-1 is? Without reading the information on it,
23 just tell us what that is.

24 A. It's a storage bag used by the Houston
25 Police Department property room.

1 Q. Is there a lab number affixed to this
2 evidence bag?

3 A. Yes, it is.

4 Q. What is that lab number?

5 A. It is 91-9937.

6 Q. At what point would that lab number be
7 put on the evidence bag that is submitted to
8 your laboratory?

9 A. When it physically enters the lab or
10 was taken from the property room to the crime
11 lab, that is when the number would be applied.

12 Q. When it is actually taken to the
13 laboratory?

14 A. That is correct.

15 Q. Now, can you tell us do you recall
16 were you asked to do any testing on the contents
17 of State's Exhibit A-1?

18 A. I was.

19 Q. Was that done at my request?

20 A. Yes, it was.

21 Q. Let me show you some envelopes
22 contained in that outer envelope. They have
23 been marked as A-2, A-3, and A-4. Can you look
24 at those envelopes and tell me whether you
25 recognize them?

1 A. I can recognize them.

2 Q. Are there identifying marks on those
3 so that you are able to recognize those items?

4 A. Yes, ma'am, there are.

5 Q. The lab number?

6 A. Lab number is L91-9937 on each of
7 these envelopes.

8 Q. And your initials?

9 A. That is also correct.

10 Q. Let me also call your attention to
11 what has been marked now as State's Exhibit A-7.
12 Do you recognize this item?

13 A. Yes, ma'am, I do.

14 Q. What is it?

15 A. It's a mini blind.

16 Q. Did you also at my request examine
17 this mini blind?

18 A. Yes, I did.

19 Q. Where did you recover the mini blind
20 contained in the plastic covering marked A-7?

21 A. It was also retrieved from the police
22 property room.

23 Q. Along with these items that you have
24 just identified as State's A-2, A-3 and A-4?

25 A. That is correct.

1 Q. Also contained in the envelopes
2 State's A-1 are some bags. One is labeled A-5.
3 Looks like it has a smaller paper in there that
4 is marked A-5-A?

5 A. That is correct.

6 Q. And another envelope, A-6, that has a
7 paper inside it marked A-6-A?

8 A. Yes, ma'am.

9 Q. Do you recognize those items?

10 A. I do.

11 Q. Did you also do some testing on those
12 items?

13 A. I did.

14 Q. All right.

15 MS. DAVIES: Your Honor, at this time
16 I offer into evidence and tender to defense
17 counsel State's Exhibits A-2 through A-7.

18 MR. STAFFORD: Not waiving my 104
19 objection, Judge, I have no objection at this
20 time.

21 THE COURT: All right, as to those
22 last two items you referred to it as A-5-A and
23 A-6-A. Is it A-5 and A-6?

24 MS. DAVIES: A-5 contains a little
25 piece of paper that is marked A-5-A. I am

1 offering the contents of A-5, which includes
2 what is marked as A-5-A. And the contents of
3 A-6, which includes A-6-A.

4 THE COURT: A-1 is a large envelope
5 which contains A-2, A-3, A-4, A-5 and A-6.
6 You are offering A-2, A-3, A-4, A-5-A and
7 A-6-A. Correct? As well as A-7?

8 MR. STAFFORD: She is offering it
9 all.

10 MS. DAVIES: A-6-A is the contents of
11 A-6. So I am offering both.

12 THE COURT: Both A-5 and A-6 as well
13 as A-5-A and A-6-A?

14 MS. DAVIES: Right.

15 THE COURT: Are you offering A-1
16 also?

17 MS. DAVIES: No, I am not offering
18 A-1. I am offering the contents of each of
19 these marked.

20 THE COURT: Do you understand the
21 tender, Mr. Stafford?

22 MR. STAFFORD: Yes, Your Honor.

23 THE COURT: You have no objection?

24 MR. STAFFORD: Subject --

25 THE COURT: You either do or you

1 don't.

2 MR. STAFFORD: I may have an objection
3 once it's tied in. What I am saying for this
4 purpose of 104 A, she can tie it up later. If
5 she doesn't tie it up later, then I'm going to
6 object. She says she's going to be able to tie
7 it in later.

8 MS. DAVIES: Your Honor, my proffer is
9 based on expectation of being able to identify
10 these objects by the officer.

11 THE COURT: I am being asked to admit
12 certain items. If they are offered and
13 admitted, she's going to be perhaps passing
14 things to the jury.

15 MR. STAFFORD: I don't think she's
16 entitled to pass them until--

17 MS. DAVIES: Your Honor, I am not
18 going to ask to pass these things to the jury.
19 Rather than recall Mr. Bolding at a later time,
20 I want to elicit, with the court's permission,
21 the results of his testing on these items.

22 THE COURT: All right.

23 MR. STAFFORD: Judicial economy, I
24 have no objection to that.

25 THE COURT: State's Exhibits A-2, A-3,

1 A-4, A-5, A-5-A, A-6, A-6-A, and A-7 are admitted.

2 BY MS. DAVIES:

3 Q. Mr. Bolding, now you said you
4 recovered these items from the property room.
5 So do you have any personal knowledge of the
6 scene or location where these items were
7 recovered?

8 A. I do not.

9 Q. Okay. Let's start with State's
10 Exhibit A-2. Can you tell the jury what the
11 contents are of the plastic envelope?

12 A. It's a tissue paper that has a
13 reddish-brown substance on it that appears to be
14 blood.

15 Q. Did you test it to determine whether
16 it was in fact blood?

17 A. Yes, I did.

18 Q. What did you determine?

19 A. I determined that human blood that was
20 type A was found on this particular item.

21 Q. Type A human blood on the tissue in
22 State's A-2?

23 A. That is correct.

24 Q. Did you test the contents of State's
25 Exhibit A-3?

1 A. Yes, I did.

2 Q. Do you know what that is?

3 A. It's insulation for a pipe.

4 Q. What did you find on that insulation,
5 if anything?

6 A. I found that human blood having
7 inconclusive blood type was found on this
8 particular insulation piece.

9 Q. Can you tell us why the inconclusive
10 result on this?

11 A. Again, I can't tell you specifically
12 why. I can give you scenarios of
13 possibilities. It could have been.

14 MR. STAFFORD: I object. If he
15 doesn't know, he doesn't know. I object to
16 scenarios, I guess.

17 THE COURT: Just a minute. He is
18 objecting to your speculation. I suppose that
19 is sustained. It's the same thing we have
20 already heard two or three times.

21 BY MS. DAVIES:

22 Q. It could be from contaminants?

23 A. That is a possibility.

24 Q. So there is human blood on the
25 contents of A-3, but you can't tell us what type

1 it is; is that correct?

2 A. That is correct.

3 Q. Can you tell us what is contained in
4 envelope marked A-4?

5 A. There is a gray and white sock.

6 Q. Did you test that item?

7 A. Yes, ma'am, I did.

8 Q. What were you looking for?

9 A. I was also looking for blood.

10 Q. What did you determine?

11 A. Determined there was human blood on
12 the sock.

13 Q. Were you able to determine the type?

14 A. No, ma'am, I was not.

15 Q. So, what was your opinion as to what
16 might be on the sock in State's Exhibit A-4?

17 A. There was a small amount of blood.
18 It was human; however, there was not enough
19 blood to go ahead and finish the type test on
20 that sock. It was just not enough present to
21 attempt to type it.

22 Q. It was a matter of the quantity in
23 this instance?

24 A. That is correct.

25 Q. Did you do some testing on the samples

1 contained in the envelopes, the outer envelopes
2 that are marked State's A-5 and A-6?

3 A. Yes, ma'am.

4 Q. As to A-5, the sample in there that is
5 marked A-5-A, what did you determine?

6 A. There was human blood with
7 inconclusive blood type. Sample from the
8 shower.

9 Q. And the sample A-6-A contained in the
10 envelope A-6, did you test it?

11 A. Yes, ma'am, I did.

12 Q. What did you determine there?

13 A. There was an indication that blood was
14 present; however, I could not confirm it due to
15 the amount of sample that was present.

16 Q. Was this just a small amount of blood?

17 A. That is correct.

18 Q. And the sample, what, just an
19 inadequate amount for you to test?

20 A. That is correct.

21 Q. So you said it's blood. Can you even
22 go so far as to say whether it's human blood or
23 not?

24 A. I don't know if it's human or not.

25 Q. What about the mini blind that is

1 contained in the wrapper, State's Exhibit A-7?

2 A. It was human blood.

3 Q. On the mini blind?

4 A. That is correct. The type was
5 inconclusive as to whether or not it contained
6 one human blood type or not.

7 Q. As to what?

8 A. As to whether or not it contained one
9 human blood type or not.

10 Q. So you had enough to tell it was
11 human, but you just couldn't tell whether it was
12 all one type?

13 A. That is correct.

14 Q. When you have got a situation where
15 you can't tell whether it's all one type, can
16 you separate them out and tell what the multiple
17 types are?

18 A. We could tell what the multiple types
19 are, yes, ma'am.

20 Q. Did you do that in this instance?

21 A. I did not. We can not attribute the
22 types to any one source, so we did not determine
23 what the number of multiple types were.

24 Q. Let me show you two items contained in
25 plastic envelopes marked State's Exhibits 36 and

1 37. Do you recognize the vials contained in
2 State's Exhibits 36 and 37?

3 A. Yes, ma'am, I do.

4 Q. How is that you are able to recognize
5 those?

6 A. They have lab number L91-9937 and my
7 initials on them.

8 Q. All right now, you placed your
9 initials on these vials, you have indicated, and
10 there is a lab number on there. Did you
11 actually do any testing on the vials contained
12 in State's Exhibits 36 and 37 yourself?

13 A. I did determine the blood types in
14 each of those vials.

15 Q. And that blood type was?

16 A. Type A.

17 Q. And other than determining the blood
18 type, what did you do with the contents of these
19 vials?

20 A. I retained one of the vials, and I
21 gave one of the vials to Ms. Monica Thompson.

22 Q. Which vial did you give to Monica
23 Thompson, if you would?

24 A. State's Exhibit 36.

25 Q. Did you ask Ms. Thompson to do

1 anything in connection with the blood vial
2 contained in State's Exhibit 36?

3 A. I did.

4 Q. What did you ask her to do?

5 A. I asked her to extract DNA from the
6 blood vial in State's Exhibit 36.

7 Q. Does Monica Thompson work there at the
8 laboratory?

9 A. Yes, ma'am, she does.

10 Q. Does she work under your supervision?

11 A. Yes.

12 Q. Is she qualified, in your opinion, as
13 her supervisor, to perform the extraction that
14 you asked her to perform?

15 A. Yes, ma'am, she is.

16 Q. Now, as to State's Exhibit 37, the
17 other blood vial, you said you recognized it.
18 Is that the one that you used to determine blood
19 type?

20 A. Yes, it is.

21 Q. I believe you said the blood type of
22 the individual whose blood is in that vial was
23 determined to be what?

24 A. Type A.

25 Q. When you were at the scene, you

1 mentioned that you lifted one of the bloody
2 footprints in the kitchen just to try to
3 determine type of blood. While you were at 624
4 Keith, did you notice the prints, the bloody
5 footprints that were on the floor?

6 A. Yes, ma'am, I did.

7 Q. Did you look at them even though you
8 were not the -- you are not in the fingerprint
9 or footprint business, did you look at them?

10 A. Yes, ma'am, I did.

11 Q. Just looking at them with the naked
12 eye, did those footprints appear to be made by a
13 bare foot?

14 A. They did not appear to be made by a
15 bare foot.

16 Q. Anywhere in the house, did you, while
17 you were at the scene, observe what appeared to
18 be any prints made by bare feet?

19 A. I did not.

20 Q. Or did you see any prints that
21 appeared to be shoe prints? In other words,
22 someone who was wearing a shoe may have stepped
23 in blood?

24 A. I did not.

25 MS. DAVIES: Pass the witness.

1 THE COURT: Mr. Stafford.

2 MR. STAFFORD: May I see his reports,
3 narrative, et cetera, et cetera? I have never
4 seen this report. It may take awhile.

5 THE COURT: Just a minute. The lab
6 report?

7 MR. STAFFORD: I want to see his notes
8 and everything. I have not seen them.

9 MS. DAVIES: I have a copy of Mr.
10 Bolding's supplement which has been shown to Mr.
11 Stafford which I will make available to him.

12 THE COURT: What is it specifically
13 you are pointing at or talking about?

14 MR. STAFFORD: His whole file, notes,
15 findings, et cetera.

16 THE COURT: Is that all in this case,
17 or is there something else also?

18 THE WITNESS: This is all this.
19
20
21
22
23
24
25

1 CROSS EXAMINATION

2 BY MR. STAFFORD:

3 Q. Do you recall who called you to make
4 the Keith Street scene?

5 A. I don't recall.

6 Q. You made an interesting comment to the
7 jury in reference to the prosecution's direct
8 examination that you don't usually make all
9 murder scenes so it has to be something unique
10 or unusual about the scene for you to make it;
11 is that correct?

12 A. That is correct.

13 Q. The unique quality about this case was
14 there was no apparent motive for the murder,
15 there was no sign of burglary or no sign of
16 robbery, no sign of anything. Is that the
17 reason they called you? Or do you know why they
18 called you?

19 A. I do not know what the uniqueness was.

20 Q. Were the homicide detectives there
21 when you arrived?

22 A. Yes, they were.

23 Q. They were there at the scene?

24 A. Yes, sir.

25 Q. Did they aid you or direct you as to

1 what they wanted you to recover, or were you
2 totally the captain of your ship and took what
3 you wanted to take?

4 A. They could make suggestions and
5 comments, but it's quite often that I am the one
6 who determines what is to be taken.

7 Q. And as far as the many, many exhibits
8 which the State has introduced, as far as the
9 blood samples are concerned, did you ever do any
10 age comparison as to the age of the blood? For
11 example, I think you took a little sample of
12 blood from the love seat in the front bedroom?

13 A. Yes, sir.

14 Q. Did you do any age comparison on any
15 of those?

16 A. No, sir.

17 Q. We do know there are two individuals
18 involved in this case with type A blood, though;
19 were they not?

20 A. I am not sure. I know there were two
21 individuals that were tested that had type A
22 blood.

23 Q. That were submitted to you in this
24 case?

25 A. Yes, sir.

1 Q. Can you tell the jury, as far as the
2 long bar is concerned, the one that you
3 supposedly recovered from the bedroom, have you
4 ever seen a picture of this on the bedroom, or
5 do you just don't recall?

6 A. I did not see a still photograph of
7 that.

8 MR. STAFFORD: I have no other
9 questions.

10 THE COURT: Anything else, Ms. Davies?

11 REDIRECT EXAMINATION

12 BY MS. DAVIES:

13 Q. Mr. Bolding, Mr. Stafford asked you
14 there was a sample from another individual who
15 had type A blood. Can you tell the jury whose
16 blood sample that was based on the evidence that
17 was given to you?

18 A. David Lee Sanders I think is the
19 gentleman's name.

20 Q. David Sanders?

21 A. Yes, ma'am.

22 Q. Mr. Stafford also asked you about a
23 photograph of the location of where this weight
24 bar, State's Exhibit 30, was recovered. Had
25 Charles Allen's body been moved when you

1 recovered this weight bar?

2 A. It had been.

3 Q. So do you have any personal knowledge
4 of where it was in relation to Charles Allen's
5 body?

6 A. I have no personal knowledge as to
7 where it was.

8 Q. Where was it when you picked it up at
9 the scene and kept it for evidence?

10 A. It was on the bed in Charles Allen's
11 room.

12 Q. Thank you.

13 MS. DAVIES: Pass the witness.

14

15 RECROSS EXAMINATION

16 BY MR. STAFFORD:

17 Q. The blood droplets on the floor in the
18 kitchen that you made reference to with the
19 bloody sock prints -- am I ringing a bell?

20 A. Yes, sir.

21 Q. That would be consistent with someone
22 walking, would it not, and blood dripping from
23 their hand?

24 A. Yes, sir, it would be.

25 MR. STAFFORD: No other questions.

1 THE COURT: Anything else?

2 MS. DAVIES: May he be excused subject
3 to recall?

4 THE COURT: Any objection to him being
5 on call?

6 MR. STAFFORD: No.

7 THE COURT: You may be on call.
8 Call your next.

9 MS. CONNORS: State would call Chuck
10 Sheldon, Your Honor.

11 WESLEY CHARLES SHELDON
12 was called as a witness by the State and, having
13 been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. CONNORS:

16 Q. Sir, could you state your name, please?

17 A. Wesley Charles Sheldon.

18 Q. Where do you work, Mr. Sheldon?

19 A. I'm a latent print examiner with the
20 Houston Police Department.

21 Q. How long have you worked with the
22 Houston Police Department?

23 A. I have been with the department twenty
24 years and seven months.

25 Q. How long have you worked with the

1 latent print division of the Houston Police
2 Department?

3 A. I have been a latent print examiner
4 for fifteen years.

5 Q. Can you explain to the jury what a
6 latent print examiner is, please?

7 A. Basically a latent print is a chance
8 impression of friction ridges on your fingers,
9 your palms, soles of your feet on some surface.
10 Normally it's hidden and needs to be developed
11 in some way.

12 Q. Can you also tell the jury what your
13 background and training are that allow you to
14 hold your present position?

15 A. Briefly, I have been with the
16 department twenty years, with the division of
17 latent prints for fifteen years. I have gone to
18 numerous schools in my field, both locally, with
19 the State DPS in Austin and federally with the
20 FBI in Quantico, Virginia. I am a member of
21 several professional organizations of which the
22 International Association of Identification has
23 certified me as a latent print examiner.

24 Q. Directing your attention back to
25 September 13th of 1991. Were you sent out to

1 624 Keith?

2 A. Yes, I was.

3 Q. Approximately what time was it that
4 you arrived there?

5 A. Between ten and eleven.

6 Q. Why was it that you were sent there?

7 A. This was a multiple homicide scene
8 with a tremendous amount of blood, and my
9 expertise was requested.

10 Q. Did you take anyone else from your
11 section with you?

12 A. Yes, I did.

13 Q. Who was that?

14 A. Al Pedia.

15 Q. What did you and Mr. Pedia do when you
16 arrived at the residence at 624 Keith?

17 A. Well, we were briefed by the
18 detectives at the scene that were in charge. We
19 waited until our turn came about to collect
20 evidence and do our search for latent prints.

21 Q. What do you mean when you say we
22 waited for our turn to come about?

23 A. Well, there was one body in one
24 bedroom up against a door. We had to wait until
25 that was cleared. The crime lab had to do their

1 search, the CSU officer had to do his scene
2 diagrams and everything else. We are normally
3 the last team to attack a scene, and usually
4 when we are through then everything is finished.

5 Q. Can you explain to the jury what the
6 crime scene unit officer is supposed to do?

7 A. Basically they do everything. They
8 diagram the scene, they video the scene, they
9 photograph the scene. In normal scenes they
10 will do the latent print work themselves. They
11 will collect the evidence, ballistics and things
12 like that. In this particular scene, the crime
13 lab was called out so they could do their
14 collection, and the latent print lab was called
15 out so we could collect our evidence. In the
16 normal scene, the CSU officer will try to handle
17 everything.

18 Q. Where was it that you and Mr. Pedia
19 began your search for fingerprints?

20 A. Well, actually we started in two ends
21 of the house and kind of converged toward the
22 middle, say. I worked from the back bedroom
23 forward. He worked the kitchen toward the front
24 of the house.

25 Q. Did you print everything in the house?

1 A. In a normal latent print search we are
2 going to examine, dust, try to get prints off of
3 every surface that could normally be touched,
4 hard surfaces that might yield a print. We are
5 not going to leave anything unturned.

6 Q. What are the factors that affect
7 whether or not someone leaves a fingerprint when
8 they touch a particular surface?

9 A. Basically the person themselves,
10 whether their hands are clean or dirty; the
11 surface that is being touched, whether it's
12 clean or dirty; the temperature; the relative
13 humidity. All these factors factor into the
14 retention of a print on a surface.

15 Q. Were there specific items that you
16 removed from the residence at 624 Keith?

17 A. Yes, there was a few items I removed.

18 Q. Let me show you what has been marked
19 for identification purposes only as State's
20 Exhibit 41. Is that an evidence envelope with
21 the date, the case number assigned to it, your
22 name and the description of all the property
23 that you removed from 624 Keith?

24 A. That is correct.

25 Q. Mr. Sheldon, the property that you

1 recovered from 624 Keith, did you place it in
2 this cardboard box?

3 A. Yes, I did.

4 Q. Let me show you what has been marked
5 for identification purposes only as State's
6 Exhibits 39, 40, 38, 42, 43, and 44. Do you
7 recognize these objects?

8 A. Yes, I do.

9 Q. Did you take the objects that I just
10 the numbers of the objects that I just read off
11 to you and did you take them with you down to
12 the Houston Police Department?

13 A. Yes, I did.

14 Q. What did you do with them?

15 A. Each item needed some sort of
16 additional development, another step in our
17 process to develop prints on this. It would be
18 more advantageous to do it downtown in the lab
19 than to do it at the scene. Consequently, I
20 recovered these items and removed them to the
21 downtown lab.

22 MS. CONNORS: Your Honor, after
23 tendering to defense counsel, I would offer
24 State's Exhibits 38, 39, 40, 42, 43 and 44. The
25 contents of all those numbers.

1 MR. STAFFORD: I have no objection.

2 THE COURT: State's Exhibits 38, 39,
3 40, 42, 43, 44 are admitted.

4 Did you also say 41?

5 MS. CONNORS: No. That was the
6 evidence envelope.

7 THE COURT: You are not tendering
8 that?

9 MS. CONNORS: No, sir.

10 THE COURT: Those six exhibits are
11 admitted.

12 BY MS. CONNORS:

13 Q. Let me show you State's Exhibit 38,
14 Mr. Sheldon. Are those two CD'S?

15 A. They are.

16 Q. And where did you obtain these two
17 CD'S from?

18 A. Directly coming in the front door past
19 the sofa we have a book rack where it's called
20 here. That was a rack that contained numerous
21 CD'S. These were two CD'S that were on the top,
22 and I theorized that they possibly could have
23 been touched, so consequently I recovered them.

24 Q. Contents of State's Exhibit 40, what
25 is that, sir?

1 A. This is the doorknob from inside the
2 front door.

3 Q. On the diagram, State's Exhibit 10, is
4 that the door located where I am pointing my
5 finger?

6 A. That is correct.

7 Q. State's Exhibit 39, what is that, sir?

8 A. Two coupons from Dominoe's Pizza.

9 Q. Where did you find the two coupons in
10 State's Exhibit 39?

11 A. This was in the kitchen area.

12 Q. Let me show you State's Exhibit 19,
13 the photograph. Are those two coupons the same
14 coupons that are State's Exhibit 39 that are
15 depicted in State's Exhibit 19?

16 A. Yes, they are.

17 Q. And can you tell the jury what the
18 contents of State's Exhibit 43 is?

19 A. This is the operating handle for the
20 faucet in the kitchen sink.

21 Q. And again that is also shown in
22 State's Exhibit 19; is that correct? State's
23 Exhibit 43?

24 A. That is correct.

25 Q. State's Exhibit 32, what is that, sir?

1 A. A pair of sunglasses.

2 Q. Did you recover those?

3 A. Yes, I did.

4 Q. Where were they recovered?

5 A. From the front bedroom.

6 Q. State's Exhibit 44, what is that?

7 A. This is a piece of sheetrock we cut
8 out of the hallway.

9 Q. On State's Exhibit 10 where would that
10 be approximately, Mr. Sheldon?

11 A. On the way to the master bedroom on
12 the right-hand side right about there.

13 Q. Right about here?

14 A. Sure.

15 Q. How did you go about processing the
16 two coupons, State's Exhibit 39, that are shown
17 in State's Exhibit 19?

18 A. With a paper article, we would threat
19 that with chemical called ninhydrin. Ninhydrin
20 would react with the amino acids left from a
21 chance impression on this article and hopefully
22 develop a suitable print.

23 Q. And the sunglasses, State's Exhibit
24 32, that are shown in State's Exhibit 32-A, how
25 did you go about processing the sunglasses

1 looking for latent prints?

2 A. I would first submit this article to
3 an atmosphere of super glue. This would develop
4 a print on the surface. And then my next step
5 would be to dust that article with fingerprint
6 powder and hopefully develop a suitable print.

7 Q. Is fingerprint powder black?

8 A. Yes, it is.

9 Q. Is that why the plastic bag, State's
10 Exhibit 32, appears to be black and the
11 sunglasses and the lens are all black?

12 A. That is why it's dirty. I think the
13 lenses are tinted anyway.

14 Q. State's Exhibit 44, the piece of
15 sheetrock, how did you go about processing that?

16 A. This was an impression in the wall
17 that was visible. I sprayed it with amido black
18 which would react with the serum protein left
19 with the chance impression and hopefully enhance
20 and develop a suitable print also. This print
21 looked suitable, you know, on the wall. We
22 removed that section so I could take it back to
23 the lab to do a better analysis of it. And,
24 consequently, it is not suitable for
25 identification.

1 Q. When you say it's not suitable for
2 identification, what do you mean?

3 A. Within the friction ridges of your
4 fingers, your palms and your soles there are
5 what we call minutia. These ridges abruptly
6 stop, they split, they come together, each one
7 of these minutia, when compared one to another
8 in a known ink print and unknown print, when we
9 have a sufficient amount that correspond we can
10 effect an identification. If we do not have a
11 suitable amount of these individual identified
12 minutia then we can not identify that print.

13 Q. There wasn't sufficient
14 characteristics to be able to identify this
15 print; is that correct?

16 A. That is correct.

17 Q. What type of print was that, could you
18 tell from looking at it?

19 A. It's a palm print.

20 Q. You talked about serum protein. What
21 do you mean by serum protein?

22 A. It's a component of your blood. This
23 chemical that we use, amido black, will react
24 with this chemical and give us a purple sort of
25 stain. The serum protein can be invisible and

1 not visible to the eye. It doesn't have to be a
2 red blood looking print. It can be a chance
3 impression that contains a serum protein, and
4 when it reacts with amido black it will give us
5 a visible stain print.

6 Q. Directing your attention to the part
7 of the faucet in State's Exhibit 43. Were you
8 able to obtain any type of latent prints in
9 State's Exhibit 43?

10 A. Yes, I was.

11 Q. What did that latent print show?

12 A. On the top of this handle, invisible
13 at the time -- I was examining the whole kitchen
14 area and the sink area -- a print developed on
15 this handle.

16 Q. And what did you see when you looked
17 at that print? Did you see any type of blood?

18 A. No, there was no visible red-looking
19 blood at all on this. It developed from my
20 amido black process.

21 Q. What else did you see from that
22 print? Anything else?

23 A. It was identifiable as suitable for
24 identification.

25 Q. Did you compare the print found on

1 State's Exhibit 43 with the two men who were
2 murdered in this case, Charles and Bradley
3 Allen?

4 A. I did with the prints that were
5 submitted to me from the morgue. Since this
6 impression is a very small, minute area, it
7 really could come anywhere within the fingers or
8 the palm. And their prints were not of the best
9 quality to definitely eliminate them. From what
10 I could examine, I could not identify that print
11 as theirs.

12 Q. Did you also compare this print with
13 the defendant Ricky Allan Rhoades?

14 A. Yes, I did.

15 Q. Were you able to determine whether or
16 not the print came from the defendant Ricky
17 Allan Rhoades?

18 A. Again, I was not. I did not identify
19 that print as his.

20 Q. Those were the only persons that you
21 compared this print on State's Exhibit 43 with,
22 the two dead men, Charles and Bradley Allen, and
23 the defendant Ricky Allan Rhoades; is that
24 correct?

25 A. That is correct.

1 Q. Mr. Sheldon, say if on September
2 first, someone had turned the water on and
3 touched this faucet and left that print, would
4 time do anything -- two weeks later, when you
5 went to lift this print, would time affect the
6 print?

7 A. It's a factor in the retention of a
8 print on a surface.

9 Q. Is it possible that had one of the
10 relatives or one of their friends left this
11 print say on September 1st or 2nd, is it
12 possible that print could have still been there
13 September 13th?

14 A. Yes.

15 Q. Did you also dust for fingerprints the
16 two pizza boxes that you found?

17 A. That would be the chemical spray I
18 referred to earlier, ninhydrin.

19 Q. Did you find some beer cans?

20 A. We had several beer cans and Coke
21 cans.

22 Q. Where did you find the beer cans and
23 Coke cans?

24 A. These were in the trash can in the
25 kitchen area.

1 Q. Were you able to lift any fingerprints
2 from the beer cans?

3 MR. STAFFORD: Object to anything that
4 is not introduced into evidence as to
5 fingerprints, judge, as far as beer cans.

6 THE COURT: You are objecting to
7 results or lack thereof?

8 MR. STAFFORD: Results, the whole ball
9 of wax.

10 THE COURT: Sustained.

11 BY MS. CONNORS:

12 Q. What did you do with the beer cans and
13 the Coke cans you found?

14 A. I dusted those for latent prints with
15 fingerprint powder. I lifted the prints and
16 retained them on a three by five card.

17 Q. Do you have those prints with you
18 here?

19 A. Yes, I do.

20 Q. Do you want them all and the
21 envelope?

22 MS. CONNORS: Yes.

23 Q. State's Exhibit 45, is that an
24 evidence envelope that you have placed the index
25 cards State's Exhibits 46 through 52 in; is that

1 correct?

2 A. That is correct.

3 Q. Directing your attention to State's
4 Exhibits 46, 47, 48, 49, 50, 51, 52. Are these
5 latent prints that you lifted from the kitchen?

6 A. Yes, from the Coca-Cola cans. Yes,
7 all from Coca-Cola cans.

8 Q. Were you able to obtain any prints
9 from the Coca-Cola cans that you examined in the
10 trash can in the kitchen?

11 A. One.

12 Q. Did you compare that one print that
13 you obtained from a Coca-Cola can in the trash
14 can in the kitchen with Charles Allen?

15 A. Yes, I did.

16 Q. Was it Charles Allen's print?

17 A. It was not.

18 Q. Did you compare it with Bradley
19 Allen's prints?

20 A. Yes, sir.

21 Q. Was it Bradley Allen's print?

22 A. It was not.

23 Q. Did you compare the print with the
24 defendant, Ricky Rhoades?

25 A. Yes, I did.

1 Q. Was it Ricky Rhoades' print?

2 A. It was not.

3 Q. You have met the defendant Ricky
4 Rhoades before; is that correct?

5 A. Yes, I have.

6 Q. Could you point out the person that
7 you know as Ricky Rhoades if you see him in the
8 courtroom?

9 A. The man with the white shirt.

10 MS. CONNORS: Your Honor, may the
11 record reflect the witness has identified the
12 defendant?

13 THE COURT: It will
14 BY MS. CONNORS:

15 Q. Those are the only three persons that
16 you compared that print that you found from the
17 Coke can, one of the Coke cans that you found in
18 the trash can; is that correct?

19 A. That is correct.

20 Q. When you were in the kitchen, Mr.
21 Sheldon, let me show you State's Exhibit 42.
22 Did you examine what appeared to be footprints
23 on the floor of the kitchen?

24 A. Yes, I did.

25 Q. And the contents of State's Exhibit

1 42, are these floor tiles that you actually took
2 up from the kitchen floor?

3 A. Yes, they are.

4 Q. Do you know approximately what area it
5 would have been on the kitchen floor that you
6 removed these from?

7 A. I can pick them out from the scene
8 photos. They were two of the impressions that
9 were generally unobscured by any other
10 impressions over them or on top of them.

11 THE COURT: Could y'all approach the
12 bench?

13 (Off the record bench conference).

14 MS. CONNORS: After showing to defense
15 counsel, I would offer State's Exhibits 32 and
16 32-A, I would offer them into evidence.

17 MR. STAFFORD: No objection.

18 THE COURT: State's Exhibits 32 and
19 32-A are admitted.

20 BY MS. CONNORS:

21 Q. Mr. Sheldon, going back to State's
22 Exhibit No. 44, the piece of sheetrock. Did you
23 say that it would have been approximately in
24 this area that you found the sheetrock?

25 A. On the right-hand side of the hallway.

1 Q. I will put SX-44.

2 Somewhere along in that doorway, not
3 obviously in front of the door because there is
4 a door there?

5 A. Yes, correct.

6 Q. Would you step down in front of the
7 jury, please? Showing you State's Exhibit 19.
8 These are the coupons, State's Exhibit 39, is
9 that correct?

10 A. That's correct.

11 Q. And the sunglasses, State's Exhibit
12 32, are shown in 32-A on the floor in the front
13 bedroom; is that correct?

14 A. That is correct.

15 Q. Remove the two floor tiles from
16 State's Exhibit 42. I am going to ask you to
17 look at State's Exhibit 15. Could you show us
18 where on State's Exhibit 15, would you circle
19 where these two floor tiles were removed?

20 A. (Complies).

21 Q. Let me show you what has been marked
22 for identification purposes only as State's
23 Exhibit 53 and 54. Do these accurately depict
24 footprints as shown in State's Exhibits 53 and
25 54?

1 A. Yes.

2 Q. When you looked at the two tiles,
3 State's Exhibit 42, what were you looking for?

4 A. Hopefully I was looking for some ridge
5 details so that if I had a sufficient amount I
6 could identify the footprint.

7 Q. If a person was barefoot and made
8 these prints, would you see ridge detail?

9 A. Hopefully, you would.

10 Q. If a person were wearing socks and
11 made these prints, would you see any ridge
12 details?

13 A. No, you would not.

14 Q. Did you, on June 11th, go to the
15 Harris County jail and take footprints from the
16 defendant Ricky Rhoades?

17 A. The 9th.

18 Q. June 9th?

19 A. Yes.

20 Q. When you went to the Harris County
21 jail, did you bring with you another pair of
22 socks?

23 A. Yes, I did.

24 Q. And what instructions did you give the
25 defendant Ricky Rhoades?

1 A. I asked him to remove his jail socks
2 so I could put on these other socks.

3 Q. When you examined him to remove his
4 jail socks, what did he say?

5 A. Well, he was thinking I was.

6 MR. STAFFORD: May we approach?

7 THE COURT: Yes.

8 Ladies and gentlemen, if you would,
9 please go with the bailiff back to the jury
10 room.

11 (Jury leaves the courtroom)

12 THE COURT: All right, the jury is
13 outside the courtroom. This is specifically
14 regarding what I believe was referred to as
15 State's Exhibits 53 and 54 and the June 9th,
16 1992, taking of prints of the defendant at the
17 county jail by this witness. Proceed.

18 BY MS. CONNORS:

19 Q. When you went to the county jail to
20 see the defendant, was the defendant placed in a
21 special room for you?

22 A. No, it was the regular room where all
23 inmates are printed.

24 Q. The particular room where they put
25 inmates when they want to take prints; is that

1 correct?

2 A. That is correct.

3 Q. When you got in the room, was the
4 defendant there?

5 A. No, I believe I had to wait for him.

6 Q. When the defendant came to the room,
7 what, if anything, did you say to him?

8 A. I don't recall saying anything to
9 him. I proceeded to -- I did ask him to wash
10 his hands, and I started to fingerprint his
11 fingers and his palms.

12 Q. And then, after you finished
13 fingerprinting his fingers and his palm, what,
14 if anything else, did you say?

15 A. I asked him to sit down and take off
16 his shoes and socks.

17 Q. When you told him to take off his
18 shoes and socks, what, if anything, did the
19 defendant say?

20 A. He stated that he had socks on in the
21 house.

22 Q. And then what did you say?

23 A. I said, "I knew that. I have another
24 pair of socks for you to wear that I am going to
25 ink."

1 MS. CONNORS: I think that is as far
2 as we need to go at this point.

3 MR. STAFFORD: Our argument is there
4 were insufficient warnings given to him, he was
5 in police custody. It was taken without a
6 warrant. Taken without the ability of counsel
7 being present.

8 THE COURT: Specifically I don't see
9 that there is any custodial interrogation. I
10 believe that is the only issue here.

11 MR. STAFFORD: My client didn't
12 voluntarily go down there. They went and got
13 him.

14 THE COURT: There is no question he is
15 in custody.

16 MR. STAFFORD: Moreover, he was
17 brought down not at his request but at the
18 request of the police. He was there because
19 they had him there for specific reasons. And I
20 am contending that all the conversations that he
21 had with this fine officer is not admissible
22 before this jury based on the Code of Criminal
23 Procedure and the rules of evidence.

24 MS. CONNORS: 38.22 speaks to
25 custodial interrogation and not to voluntary

1 statement. It's a voluntary statement that he
2 made; was not in response to any question by Mr.
3 Sheldon who works for the police department.

4 THE COURT: That is my
5 understanding. I am going to allow it.

6 Was there anything else we need to
7 cover with this witness while the jury is out of
8 the room?

9 MR. STAFFORD: I object to the prints
10 being admitted at all because it was done
11 without counsel being present, was done without
12 counsel's knowledge. They already had
13 sufficient fingerprints. It was done without a
14 proper warrant.

15 THE COURT: I don't think they have
16 been tendered yet, and I believe I am
17 anticipating the testimony will be that there
18 could be no match as to prints. If anything,
19 all it could be would be that the size and shape
20 of the foot weren't inconsistent with what was
21 recovered from the house. Is that your
22 understanding?

23 MR. STAFFORD: Yes, Your Honor.

24 MS. CONNORS: Yes, Your Honor.

25 THE COURT: Bring the jury in.

1 MR. STAFFORD: Do you overrule my
2 objection?

3 THE COURT: Yes.

4 (Jury in)

5 BY MS. CONNORS:

6 Q. Mr. Sheldon, on June 9, did you go to
7 the Harris County jail?

8 A. Yes, I did.

9 Q. And did you see this defendant, Ricky
10 Allan Rhoades?

11 A. Yes, I did.

12 Q. And did you meet the defendant in a
13 particular room at the Harris County jail that
14 is used for taking fingerprints?

15 A. Yes, I did.

16 Q. When you got to that room, was the
17 defendant there?

18 A. No, I believe I had to wait for him to
19 arrive.

20 Q. When he arrived, what did you do?

21 A. I asked him to wash his hands, and I
22 proceeded to fingerprint his fingers and his
23 palms.

24 Q. Why did you ask him to wash his hands?

25 A. We like to have the hands clear, free

1 of any debris so I can get a good impression of
2 his friction ridge formations.

3 Q. The person that you took the
4 fingerprints of that you met in that room at the
5 Harris County jail back on June 9 is this man
6 you have identified earlier in the white shirt;
7 is that correct?

8 A. That is correct.

9 MS. CONNORS: Your Honor, may the
10 record reflect that he has identified the
11 defendant?

12 THE COURT: It will.

13 BY MS. CONNORS:

14 Q. Mr. Sheldon, after you took the
15 defendant's fingerprints and palm prints, what
16 did you do?

17 A. I asked him to sit down and take off
18 his shoes and his socks.

19 Q. After you asked him to take off his
20 shoes and socks, what, if anything, did he do or
21 say?

22 A. He stated that he had his socks on in
23 the house.

24 Q. After the defendant told you he had
25 his socks on in the house, what did you do?

1 A. I stated I knew. I had another pair
2 that I wanted him to put on so I could ink those
3 up.

4 Q. You brought an additional pair of
5 socks; is that correct?

6 A. That is correct.

7 Q. And did you give those socks to the
8 defendant?

9 A. Yes, I did.

10 Q. And then what did he do with them?

11 A. He put them on his feet, I inked up
12 his feet, and I took some impressions of when he
13 stood up, of his sole impression on some paper.

14 Q. When you say you inked up his feet,
15 what do you mean?

16 A. I put the sock on his foot and I took
17 our fingerprint roller, which I applied a thin
18 layer of fingerprint ink, and I rolled his foot.

19 Q. Would that have been the left foot or
20 right foot?

21 A. Left foot. I did both feet. Excuse
22 me.

23 Q. State's Exhibits 53 and 54 are the two
24 left footprints of the defendant in his socks;
25 is that correct?

1 A. Yes, two impressions of the left foot.

2 MS. CONNORS: Your Honor, I tender to
3 defense counsel State's Exhibits 53 and 54 and
4 offer them into evidence.

5 MR. STAFFORD: Subject to my objection
6 outside the jury, I renew the same.

7 THE COURT: State's Exhibits 53 and 54
8 are admitted.

9 BY MS. CONNORS:

10 Q. Mr. Sheldon, after you took the inked
11 impression from both the defendant's right and
12 left feet, what then did you do?

13 A. I returned to my office and started
14 the comparison.

15 Q. And you were comparing the inked
16 impression in State's Exhibits 53 and 54 with
17 the two tiles from the kitchen floor in State's
18 Exhibit 42; is that correct?

19 A. That is correct.

20 Q. What were you looking for?

21 A. I was looking for similarities.

22 Q. What similarities were you looking
23 for?

24 A. Generally we call them class
25 characteristics. We have size, shape, general

1 pattern type. Due to the lack of identifying
2 characteristics, I couldn't positively identify
3 that print.

4 Q. When you say due to the lack of
5 identifying characteristics, that is because the
6 defendant had socks on when he was standing in
7 the kitchen; is that correct?

8 A. That is correct.

9 Q. With respect to size, the two tiles,
10 State's Exhibit 42, that you took from the
11 kitchen floor, and the prints that you took from
12 the defendant on June 9th, the footprints, could
13 you compare the size of the two different
14 prints?

15 A. Yes, I could.

16 Q. And what was that?

17 A. They are generally the same size.

18 Q. What about the shape from the shape of
19 State's Exhibit 42 and the shape of the
20 defendant's feet that you took shown in State's
21 Exhibits 53 and 54?

22 A. Again, they are generally the same
23 size.

24 Q. And what other things were you looking
25 at?

1 A. Looking at the basic shape. We could
2 tell that there was a high arch looking area
3 where we didn't get a real good impression from
4 the kitchen floor in the arch area, and
5 correspondingly we had the same sort of
6 impression, sort of design, not design, but
7 impression from the inked pattern.

8 Q. Mr. Sheldon, in order to have left
9 those footprints on State's Exhibit 42 with the
10 amount of blood that is shown on these prints,
11 would the sock have to have had a little bit of
12 blood, or would it have been saturated in blood
13 to have left those?

14 A. In my opinion, I would say it would be
15 saturated.

16 Q. Can you step down for a moment, please?
17 Can you show the jury, when you talked
18 about the size, what you were looking at?

19 A. Generally from heel to toe. That
20 distance. The width in the heel. The width in
21 this area. The width in the toes. The toes
22 themselves. And talking about the instep right
23 in this area right here.

24 Q. And when you talk about the shape,
25 what are you looking at?

1 A. Again, what I refer to toes, shape of
2 the instep, the curvature here.

3 Q. Was there anything else you were
4 looking at?

5 A. Basically that is it.

6 Q. What opinion did you reach as to the
7 footprints shown in State's Exhibit 42 and the
8 defendant's footprints that you took in 53 and
9 54?

10 A. They are similar in class
11 characteristics.

12 Q. And unlike fingerprints or footprints
13 made with the barefoot, because a sock was worn,
14 you can say only that they were similar, the
15 footprints appeared similar; is that correct?

16 A. That is correct.

17 Q. As one of your duties as a latent
18 print examiner, you keep statistics concerning
19 the percentage of prints that are linked up with
20 a suspect with the evidence that is submitted on
21 a yearly basis to the Houston Police Department?

22 A. Yes, my duty is to keep the statistics
23 for our division and compile them with the
24 report.

25 Q. What percentage of evidence do you

1 find prints to have characteristics that are
2 suitable for identification of the one hundred
3 percent of evidence?

4 A. Fifteen percent.

5 Q. Of the fifteen percent suitable
6 characteristics for I. D., of that fifteen
7 percent of evidence, what percent of that
8 fifteen percent of evidence are you able then to
9 link up with a suspect?

10 A. Ultimately identified, two percent of
11 that fifteen percent. Those are identified.
12 The fifteen percent are able to be identified.
13 Two percent are identified.

14 THE COURT: Two percent of the
15 fifteen?

16 A. Two percent of the fifteen percent.
17 85 percent are no good. No good to us at all.
18 We can't do anything with it. Of the fifteen
19 percent that we can do something with, two
20 percent are ultimately identified.

21 Q. It's not like TV, then, where people
22 touch surfaces and you automatically get
23 fingerprints and link them up with the suspect;
24 is that correct?

25 A. No, it's not like TV.

1 Q. Let me show you State's Exhibits 30
2 and 31. Do you recognize State's Exhibit 30,
3 this straight bar, and State's Exhibit 31, a
4 threaded weight bar?

5 A. Yes, I do.

6 Q. And did you also print State's
7 Exhibits 30 and 31?

8 A. Yes, I did.

9 Q. What type of substance did you use to
10 print those two particular items?

11 A. Since these had blood residue on them,
12 or suspected blood residue, I used amido black
13 for the process.

14 Q. Were you able to obtain prints from
15 either State's Exhibits 30 or 31?

16 A. I was not.

17 Q. Let me show you what has been
18 introduced into evidence as State's Exhibit 29.
19 Did you also print State's Exhibit 29?

20 A. Yes, I did.

21 Q. Looking at the blade of State's
22 Exhibit 29, why is it that bluish black color?

23 A. This is the residue from my amido
24 black process.

25 Q. When you received State's Exhibit 29,

1 do you remember whether or not there was blood
2 visible to the eye on the blade of State's 29?

3 A. Yes, there was.

4 Q. And State's Exhibit 33, one smaller
5 knife and a larger knife, butcher knife, did you
6 also print State's Exhibit 33, the two knives in
7 there?

8 A. Yes, I did.

9 Q. Were you able to obtain prints from
10 either the knives in State's Exhibit 33?

11 A. No, I was not.

12 MS. CONNORS: No further questions.

13 THE COURT: Mr. Stafford.

14 CROSS EXAMINATION

15 BY MR. STAFFORD:

16 Q. Sir, as far as the fifteen and two
17 percent is concerned, if an accused admits being
18 there and committing the offense, fingerprints
19 really have no bearing or significance; do they?

20 A. As far as my percentages?

21 Q. Yes?

22 A. Well, if we make an identification,
23 that is going to go on our records as
24 identification. We like to show results, so we
25 are not going to overlook anything.

1 Q. It just helps your statistics and
2 nothing else; is that correct?

3 A. It shows our workload when we
4 accomplish something.

5 MR. STAFFORD: I have no other
6 questions.

7 THE COURT: Any objection to this
8 witness being excused subject to being on call?

9 MR. STAFFORD: No.

10 THE COURT: You may be excused, sir.

11 Ladies and gentlemen, we are going to
12 break for the day. Need to cover some
13 housekeeping chores here. I know sometimes it
14 seems cold in here and sometimes hot, depending
15 on where you are setting. Are you cold sitting
16 in front of the vent? You might want to bring a
17 jacket.

18 I don't always take breaks at exactly
19 an hour and fifteen minutes. If anybody needs
20 to have a break, just raise your hand and we
21 will take a break.

22 Did everybody park today where you
23 keep your car keys? You are all pointing back
24 there. I hope it's not locked up. Do you know
25 where you left it?

1 THE JUROR: I know where I left it.

2 THE COURT: Several members of the
3 media have been in and out of the courtroom. I
4 have seen Channel 13 and I have seen the
5 Chronicle and the Post. It has been brought to
6 my attention, I don't think the attorneys are
7 aware of this, that Mr. Copus with Channel 13
8 does know and lives in the same neighborhood as
9 Mr. Yust. Y'all have seen each other in the
10 courtroom today. You do know each other, you
11 are on speaking acquaintance. You didn't know
12 he was going to be here today, and he didn't
13 know you were going to be on this jury.
14 Regarding the media, it is evidently going to be
15 appearing in the newspapers and on some of the
16 stations and maybe on radio as well as
17 television. Some aspects of this case. I am
18 admonishing you not to pay any attention to
19 that. If you see an article on this case, don't
20 read it. Save your newspapers until the case is
21 over. If you are thumbing through a section of
22 the newspaper and you come across anything, if
23 you think you are capable of skipping over that,
24 fine. I am quite sure at least on one
25 television station it's going to be appearing

1 there, so don't watch anything on TV about this
2 case. Again, those people were in and out. You
3 have been here all day. You are going to know
4 what is happening in this case. I don't want
5 you talking about this case with anyone, not
6 with your spouses, not with your employers, not
7 among yourselves until you are back there
8 deliberating the case. The attorneys have all
9 been admonished not to engage you in
10 conversation, which is to say that if they
11 should see you in the hallways or around the
12 elevators or anything like that, we may nod that
13 we recognize you as a juror but not engage you
14 in conversation. If anybody attempts to talk
15 to you about the case, bring it to our attention
16 immediately, tell me or tell the bailiff who has
17 you in charge. Don't make any kind of
18 independent investigation. Don't attempt to
19 read law that you think might apply in this
20 case. You know now some specific addresses.
21 Don't make any drive-byes. I don't think there
22 is anybody here who lives in the vicinity of
23 Pasadena, as I recall from your questionnaires.

24 Do y'all have any requested
25 admonitions at this time?

1 MS. DAVIES: Just to avoid the media
2 as you have instructed them.

3 THE COURT: Very much avoid the
4 media. Continue to wear your badges at all
5 times. Ask you be back down here tomorrow at
6 10:00 a.m. Again I am not going to know exactly
7 where we are going to be at four or five or six
8 o'clock tomorrow. I would like to get through
9 as many witnesses as possible.

10 Any questions? If there is nothing
11 else. I want y'all to go back in a group to
12 the jury room and retrieve all your belongings.
13 We will get an elevator to take you down at one
14 time. Ten a.m. tomorrow morning in the
15 hallway.